

CALIFORNIA COASTAL COMMISSION

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APPEAL STAFF REPORT – DE NOVO REVIEW

Application numberA-2-SMC-04-002, Polacek Residence

Applicant.....Michael and Ana Polacek

Local GovernmentSan Mateo County

Local DecisionApproved with Conditions

Substantial IssueThe Commission found that the appeal of the local government action on this development raised a substantial issue on March 19, 2004.

Project locationBean Hollow Road, in the unincorporated Pescadero area of San Mateo County; APN 86-191-120.

Project description.....Construction of a single family dwelling in the Planned Agricultural District consisting of: 4,974 square feet of heated living space, 861 square foot garage and storage area, 350 square foot garden shed, 600 square foot indoor/outdoor greenhouse (attached to the house) for a total of 6,785 square feet. Additional proposed development includes a pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel.

AppellantsCommissioners Mike Reilly and John Woolley

File documents.....See Appendix A

Staff recommendation ...Approval with Conditions

Summary: The applicants propose to construct a new single-family dwelling consisting of 4,974 square feet of heated living space, 861 square feet of garage and storage area space, a 350 square foot garden shed, a 600 square foot indoor/outdoor greenhouse (attached to the house) for a total square footage of 6,785 square feet. The proposed project also includes a swimming pool, a new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel. San Mateo County approved the project on January 14, 2004. The Commission appealed this approval. On March 19, 2004, the Commission found that the appeal raised substantial issues regarding the conformance of the approved development with the agriculture, new development, and visual resources policies of the San Mateo LCP. In order to approve a coastal development permit through a *de novo* review of the project, the Commission required: 1) a site-specific



California Coastal Commission
May 2005 Meeting in Palo Alto

Staff: S. Craig Approved by:

biological resources assessment and wetland delineation (in accordance with the LCP definition of wetlands), including an analysis of the site regarding potential habitat for the San Francisco garter snake and California red-legged frog; 2) an analysis of the feasibility of continued or renewed agricultural use of the soils at the site; 3) further documentation of the visual impacts of the project; 4) a more detailed survey of the soils at the site, and; 5) information regarding the financial nature of the applicants' property interest.

The project as proposed does not conform to the agricultural resources policies of the San Mateo County LCP. The Coastal Act provides strong protection for agricultural lands in the coastal zone. The San Mateo County LCP carries out the agricultural protection requirements of Coastal Act through strict land use and zoning policies designed to maintain the maximum amount of agricultural lands in agricultural production and to concentrate development in existing urban areas and rural service centers. Approximately 70 percent of the agricultural land in San Mateo County is zoned Planned Agricultural District (PAD). The project site is zoned PAD. Soils on the property consist of prime agricultural soils. The purpose of the PAD zoning designation is to maintain the maximum amount of agricultural land in agricultural production. As such, the policies of the San Mateo County LCP strictly limit the conversion of agricultural lands to non-agricultural uses. Conversion of agricultural lands is prohibited unless the applicant provides factual evidence demonstrating that the development would meet the goals of the PAD zoning district to maintain the maximum amount of prime land in production, minimize the encroachment of non-agricultural development on to agricultural lands, ensure that residential development will not diminish the productivity of adjacent lands, and preserve the viability of agriculture on agricultural parcels. The proposed project includes the construction of a single-family residence and other development totaling 6,785 square feet. The proposed development is much larger than most other residences constructed on agricultural lands within the PAD zone. As detailed in these findings, the development would not meet the goals and standards of the PAD zoning district.

To address these concerns, Commission Staff recommends approval of the project with Special Condition #1, which would limit the size of a single-family residence to 2,500 square feet. Special Condition #1 is necessary to minimize the encroachment of non-agricultural development on agricultural lands, but also to ensure that residential development does not adversely impact agriculture, as the LCP requires. This limitation allows a reasonable residential development while minimizing the impacts to agricultural resources. This 2,500 sq. ft. limit is similar to and consistent with local, state, and national data regarding the sizes of residential development on agricultural properties and is consistent with the size, scale and character of similar development on agricultural lands in San Mateo County. Special Condition #1 also establishes a residential development envelope of 10,000 sq. ft. to ensure that development on the site is clustered, to ensure that the residence and related development occupy the minimal amount of agricultural land necessary (and thus are incidental to agriculture), while still allowing a reasonable residential development. Additionally, Special Condition #1 relocates the residential development closer to Bean Hollow Road to further minimize encroachment of the residential development on agriculture land.

In addition, Staff is also recommending Special Condition #2, which would establish an agricultural easement to ensure the long-term viability of agricultural resources on the undeveloped portions of the



parcel. Additional conditions include landscaping requirements to eliminate existing invasive pampas grass and to prohibit the planting of invasive species on the parcel, as well as conditions to require best management practices during construction, to allow for development of an additional agricultural water source in the future (if deemed necessary for continued agricultural use on the parcel), and to require a prior-to-construction survey be undertaken for the San Francisco garter snake and the California red-legged frog. As conditioned, staff recommends approval.

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I. Project Procedural History

San Mateo County has a certified LCP, and the proposed project was reviewed in a local coastal permit process before the County took action on it on January 14, 2004. Commissioners Mike Reilly and John Woolley then appealed the County's approval to the Commission. On March 19, 2004, the Commission found that the appeal of the development approved by San Mateo County raised substantial issues regarding the conformance of the approved development with the agriculture, new development, and visual resources policies of the San Mateo LCP. In order to approve a coastal development permit through a *de novo* review of the project, the Commission required a site-specific biological resources assessment and wetland delineation conducted in accordance with the LCP definition of wetlands, an analysis of the feasibility of continued or renewed agricultural use of the soils at the site, further documentation of the visual impacts of the project, a more detailed survey of the soils at the site, and information regarding the financial nature of the applicants' property interest.

II. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number A-2-SMC-04-002 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the grounds that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

III. Conditions of Approval

A. Standard Conditions



1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. Revised Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants shall submit two sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be consistent with the following requirements:

- A. **Residential Development Envelope.** All residential development (i.e., the residence, all impermeable pathways, turnarounds, courtyards, garages, swimming pools, retaining walls, etc.), except the approved driveway, shall be confined within an area of no greater than 10,000 square feet. The residential development envelope shall be sited within the “potential building area” depicted on Exhibit #10.
- B. **House Size.** The habitable internal floor area (excluding non-habitable space such as garages and unenclosed decks or patios) of the approved single-family residence shall not exceed 2,500 square feet.
- C. **Other Grading/Utilities and Septic Line Area.** Following utility and septic system installation, all disturbed areas shall be contoured to mimic the natural topography of the site.
- D. **Building Materials.** Non-reflective, earth tone materials shall be used on all surfaces (siding, roofing, windows, chimney, gutters, etc.) to prevent the detection of glare or light reflection from public viewing areas and to ensure that the development blends well into the surrounding rural environment.



- E. Landscaping Plan.** The landscape plan shall show the location, type, and sizes of all landscaping elements within the 10,000 square foot residential building envelope (there shall be no ornamentally landscaped areas outside of the residential building envelope) and shall show how views from Cabrillo Highway will be softened by the introduction of trees and shrubs. No species included in the *California Exotic Pest Plant List* shall be used for landscaping purposes. The landscaping plan shall also reflect measures included in the applicants' agricultural land management plan that provide appropriate windbreaks and protection from agricultural operations on the site. All plantings will be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan. The landscaping plan shall also provide for the removal of all pampas grass (*Cortaderia jubata*) on the parcel.
- F.** The Permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. Agricultural Use.

- A.** No development, as defined in section 30106 of the Coastal Act shall occur outside of the approved development envelope pursuant to the final approved plans in accordance with Special Condition #1 and as generally depicted in Exhibit #10, except for:
- 1.** Agricultural production activities defined as "activities that are directly related to the cultivation of agricultural commodities for sale. Agricultural commodities are limited to food and fiber in their raw unprocessed state, and ornamental plant material.
 - 2.** Agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site, such as agricultural barns, fences, and agricultural ponds, except that no structures shall be located within any wetlands, streams, riparian corridor, sensitive habitat areas or their buffers as generally depicted on Exhibit #11.
 - 3.** Underground utilities.
 - 4.** Public access improvements.
 - 5.** Farm labor housing, if approved by the Coastal Commission as an amendment to this coastal development permit.
- B.** All areas of the Property, except for the 10,000 square foot development envelope specified in Special Condition #1, shall at all times be maintained in active agricultural use. Agricultural use shall be defined as the use of land for the purpose of producing an agricultural commodity for commercial purposes. The Permittees shall be responsible for ensuring that an adequate water supply is available for the life of the approved development to sustain the agricultural viability of the



property, and shall acquire or develop any additional water supply determined by the Executive Director, Grantee of the Agricultural Conservation Easement, or lessee to be necessary to fulfill this requirement.

- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall dedicate an agricultural conservation easement to a public agency or private association approved by the Executive Director (hereinafter referred to as the “Grantee”). The agricultural conservation easement shall be for the purposes of implementing the requirements of Paragraphs A and B above. Such easement shall be located over the entire parcel except for the area contained within the approved development envelope pursuant to Special Condition #1 as shown in Exhibit #10. After acceptance, this easement may be transferred to and held by any entity that qualifies as a Grantee under the criteria stated above. The easement shall be subject to a covenant that runs with the land providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers the easement to an entity that qualifies as a Grantee under the criteria stated herein.
- D.** In the event that an acceptable Grantee cannot be identified, the applicant may in the alternative execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an agricultural conservation easement consistent with the purposes and requirements described above. The recorded document shall include legal descriptions of both the applicants’ entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.
- E.** The landowners shall submit to the Executive Director and/or Grantee such information as may reasonably be required to monitor the landowners’ compliance with the terms of this condition. Such information may include a written report describing current uses and changes in uses (including residential uses). The written report and any other required information shall be provided as needed upon the request of the Executive Director and/or Grantee, in a form as shall be reasonably required by same. If the landowner enters into a lease agreement with a farm operator for any portion of the property, a copy of the lease agreement may also be required as further documentation of compliance with this condition.
- F.** If circumstances arise in the future beyond the control of the landowner or operator that render continued agricultural production on the property infeasible, the easement may be converted to an open space easement upon Commission certification of an amendment to the LCP changing the land use designation of the parcel to Open Space in accordance with all applicable policies of the certified LUP and the Coastal Act, and the requirements of Paragraph B above may be extinguished upon Commission approval of an amendment to this coastal development permit.



3. Right-to-Farm. By acceptance of this permit, the Permittees acknowledge and agree: (a) that the permitted residential development is located on and adjacent to land used for agricultural purposes; (b) users of the property may be subject to inconvenience, discomfort or adverse effects arising from adjacent agricultural operations including, but not limited to, dust, smoke, noise, odors, fumes, grazing, insects, application of chemical herbicides, insecticides, and fertilizers, and operation of machinery; (c) users of the property accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses; (d) to assume the risks to the Permittees and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural lands against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any issues that are related to the normal and necessary agricultural land use and its impact to users of the property.

4. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

5. Pre-Construction Frog & Snake Survey/Construction Plan. No more than 30 days prior to grading or construction activities on the site, a pre-construction survey shall be completed by a qualified biologist to determine if the California red-legged frog or the San Francisco garter snake occur in or adjacent to the proposed construction/grading area. In addition, the following avoidance measures shall be implemented:

- Before construction/grading begins, a qualified biologist shall inform the grading/heavy equipment operators of the potential presence of the California red-legged frog or San Francisco garter snake, their protected status, work boundaries, and measures to be implemented to avoid the incidental take of frogs and/or snakes;
- Heavy equipment operators shall be informed of the location of wetland habitats on the parcel and instructed to avoid entry into any wetland habitat areas on the parcel;
- Temporary sediment settling basins and structures such as sediment fencing, straw bales, or



other appropriate erosion control measures shall be used to delineate project areas boundaries and prevent sediment-laden runoff from entering the drainage channels/wetland areas.

- A qualified biologist shall monitor grading activities occurring within 500 feet of the aquatic and wetland habitats;
- During construction, ensure that all holes are covered at night to prevent California red-legged frog or San Francisco garter snake from taking cover in holes on the construction site;
- Food and food-related trash items associated with construction works shall be enclosed in sealed containers and regularly removed from the project site to deter potential predators of California red-legged frog or San Francisco garter snake;
- Pets shall not be permitted on the construction site;
- All staging areas and all fueling and maintenance of vehicles and other equipment shall take place at least 100 feet from any wetland areas on the parcel;

If California red-legged frog or San Francisco garter snake are observed during the pre-construction survey or during construction/grading activities, the applicant shall consult with U.S. Fish & Wildlife Service to establish any additional avoidance measures designed to avoid take of these species.

6. Implementation of Best Management Practices During Construction. Appropriate best management practices shall be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook. These measures shall include: 1) limiting the extent of land disturbance to the minimum amount necessary to construct the project; 2) designating areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; 3) providing for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in any runoff from construction, staging, and storage/stockpile areas; 4) incorporating good construction housekeeping measures, including the use of dry cleanup measures whenever possible; 5) collecting and filtering cleanup water when dry cleanup methods are not feasible; 6) cleaning and refueling construction equipment at designated offsite maintenance areas, and; 7) the immediate clean-up of any leaks or spills. The construction areas shall be delineated with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

7. Post-Construction Stormwater Pollution Prevention Plan.

A. Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, a Post-Construction Stormwater Pollution Prevention Plan showing final drainage and runoff control measures. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs)



designed to control the volume, velocity and pollutant load of storm water leaving the developed site after completion of construction. The Post-Construction Polluted Runoff Prevention Plan shall include, at a minimum, the BMPs specified below:

1. A pop-up drainage emitter system, or similar device shall be installed to conduct roof runoff from roof gutter systems and downspouts away from structural foundations and to disperse runoff in lawn or landscaped areas. Emitters shall be sized according to downspout and watershed (roof area) size. Pipe riser height shall be designed to create head sufficient enough to lift pop-up. Outfall and sheetflow shall be designed to disperse runoff onto vegetated areas or suitable landscaped.
2. Where possible, runoff from the driveway should be directed to natural drainage systems that allow for filtration.
3. Native or noninvasive drought-tolerant adapted vegetation shall be selected, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.
4. The final site plan shall show the finished grades and the locations of the drainage improvements, including downspouts and, where necessary, splashguards.

B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Conditions Imposed By Local Government. All previous conditions of approval imposed on the project by San Mateo County pursuant to an authority other than the California Coastal Act remain in effect (San Mateo County File Number PLN 2002-00199; see Exhibit 13).

IV. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

The project approved by the County consists of construction of a new two-story single family dwelling consisting of 4,974 square feet of heated living area, an 861 square foot garage and storage area, a 350 square foot garden shed, a 600 square foot greenhouse (attached to the house), for a total development of 6,785 square feet. The project also includes a swimming pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel that is zoned PAD (Planned Agricultural District) (see Exhibit 2 for project plans). The approved development also includes a domestic orchard garden and patios. The parcel is located on Bean Hollow Road in the unincorporated area of San Mateo County.



The project approved by the County is located inland of Highway 1, on a 17.98-acre parcel on the west side of Bean Hollow Road (APN 086-191-120) in the unincorporated Pescadero Area of San Mateo County (see Exhibit 1 for location maps). The property is located approximately 0.5 mile from the coast, inland of Bean Hollow State Beach. The project site is located adjacent to the Cabrillo Highway State Scenic corridor. The County's September 10, 2003 staff report for this project states that the proposed residence will be visible from Highway 1, which is a State Scenic Road, and will be partially visible from Bean Hollow Road. The property is bordered by Bean Hollow Road on the east, agricultural land on the north and west, and agricultural and residential development to the south. The County planning staff conducted a site visit and concluded that all adjacent parcels appeared to be within agricultural production (December 8, 2003 report to Agricultural Advisory Committee).

The subject property is a gradually sloped terrace with slopes ranging between 5 and 7%. Elevation at the site ranges from approximately 165 feet above sea level in the western portion of the property to approximately 230 feet above sea level in the eastern portion of the property. The approved development would be located on the central portion of the eastern side of the property, at elevations of approximately 190 to 210 feet above sea level (see Exhibit 2, pg. 1).

According to a report by Thomas Reid Associates (April 2003), the property has been farmed in the past for straw flowers, leeks, and Brussels sprouts, and has been fallow since 2000. The Agricultural Land Management Plan (Exhibit 3) prepared by the applicants states that the property has been farmed in row and grain crops since 1900 or earlier and that historical crops have included artichokes, fava beans, Brussels sprouts, leeks, hay, straw flowers and ornamental eucalyptus.

The 17.98-acre parcel is comprised entirely of prime agricultural land and has a long history of agricultural use as part of the larger approximately 220-acre Campanotti farm (pers. comm. Jack Olsen, San Mateo County Farm Bureau). The parcel was in active cultivation up until the time that the applicants purchased the property in 2000.

On November 2, 2000, the County granted the applicants (Mike and Ana Polacek) a conditional Certificate of Compliance and Coastal Development Permit for the legalization of the subject parcel. According to the County's staff report for these permits (PLN 2000-00346), the parcel was a portion of a 22.96-acre parcel described in a deed that was one of 41 lots of the Peninsula Farms Subdivision recorded on January 8, 1923 at the County Recorder's Office. This report also states that, in 1959, a 5.02-acre portion of the original parcel was conveyed by recorded deed to another person, and was legalized in 1959 when the County issued a building permit to construct a house upon it. This report concludes that since the conveyance of the subject 17.98-acre parcel occurred without filing an approved subdivision map and after the County's Subdivision Ordinance was adopted in August 1946, the parcel was never legally subdivided. As such, the County determined that a conditional certificate of compliance was required under the Subdivision Map Act, County LUP Policies 1.28 and 1.29, and the County's Subdivision Ordinance to legally subdivide the parcel. In accordance with both the Subdivision Map Act and the County's LCP, a conditional certificate of compliance may only be granted to legalize the subdivision of undeveloped land where the resulting parcel(s) would fully



conform with all applicable requirements of the LCP in effect at the time the certificate of compliance is approved.

The conditions of approval for the coastal development permit for the legalization of the subject parcel and the Certificate of Compliance approved by the County in 2000 explicitly informed the applicants (Mike and Ana Polacek) of the following:

Any development on this parcel in the future would be subject to compliance with the regulations of the County General Plan, Zoning Regulations and the County Local Coastal Program. Local Coastal Program policies include, but are not limited to, the protection of prime agricultural soil, the protection of existing and potential agriculture, the protection of ridgelines, such that structures do not break the ridgeline, and the protection of sensitive habitat.

Although the above-cited condition provides clear notice that any development on the parcel would need to comply with the LCP agricultural protection policies, it is not clear that the County's action in approving the certificate of compliance met the LCP requirements for the subdivision of prime agricultural lands, including for example, LUP Policy 5.7, which states:

5.7 Division of Prime Agricultural Land Designated as Agriculture

- a. Prohibit the division of parcels consisting entirely of prime agricultural land.*
- b. Prohibit the division of prime agricultural land within a parcel, unless it can be demonstrated that existing or potential agricultural productivity would not be reduced.*
- c. Prohibit the creation of new parcels whose only building site would be on prime agricultural land.*

The property consists entirely of prime agricultural land, is designated in the County's LUP as Agriculture, and is zoned Planned Agricultural District (PAD). As shown above, subdivision of such lands is prohibited under the LCP. However, since the County's action approving the certificate of compliance was not appealed to the Commission or otherwise challenged, this action is final and the 17.98-acre parcel is now a legally subdivided lot.

A single-family residence is not a principally permitted use anywhere within the PAD zone, but may be allowed only with the issuance of a Planned Agricultural Permit. A Planned Agricultural Permit may only be approved for a conditional use such as a single-family residence if the resulting development is consistent with the purpose of the PAD zoning district and meets all of the substantive criteria specified in the zoning code necessary to keep the maximum amount of agricultural land in agricultural production and minimize conflicts between agricultural and non-agricultural land uses. These criteria, which are contained throughout zoning code sections 6350-6363, require: (1) minimizing encroachment on land suitable for agricultural use, (2) clustering development on the parcel, (3) ensuring an adequate water supply for agricultural use, (4) ensuring that the productivity of adjacent agricultural lands is not diminished as a result of the development, (5) ensuring that agricultural viability is not impaired through increased assessment costs, (6) developing all areas unsuitable for agriculture before converting



agricultural lands, and (7) limiting conversion of agricultural land to areas where continued or renewed agricultural use is no longer feasible.

Therefore, at the time of the County's approval of the Certificate of Compliance and coastal development permit, the applicants had been notified of the requirements that any development on the parcel would need to comply with the LCP Policies, including those protecting prime agricultural lands.

The property is designated in the County's LUP as Agriculture and is zoned Planned Agricultural District (PAD). The PAD zoning of the lands within the coastal zone allows one density credit or one residential unit on the property. However, a single-family residence is not allowable as a principally permitted structure within the PAD, but may be allowed only with the issuance of a Planned Agricultural Permit. The County determined that the project was in compliance with the substantive criteria for issuance of a Planned Agricultural Permit (Section 6355 of San Mateo County's Zoning Regulations). The substantive criteria address protection of agricultural uses on land in the PAD. These criteria include minimizing encroachment on land suitable for agricultural use, clustering development on the parcel, ensuring an adequate water supply, preventing or minimizing division or conversion of agricultural land, and retention of agricultural land within public recreation facilities.

The County's staff reports for the proposed residential project describe the property as being vacant and only developed with an agricultural well. However, the site plan approved by the County shows a barn in the northwest corner of the property as being mostly located on the subject parcel. Based on a review of aerial photographs (Exhibit 4), there is a cluster of approximately four structures (including at least one barn) located in the vicinity of the northwest corner of the property. These photographs show the area to the north, east and west of the site as being almost entirely in agricultural production. Additionally, these photographs show a residence surrounded by evergreen trees and greenhouses to the immediate south of the subject property. Further to the south is an area with approximately eight residences visible from these aerial photographs. Approximately one-half mile to the south are predominantly undeveloped lands surrounding Lake Lucerne and Arroyo de los Frijoles.

B. Prime Agricultural Land Definition

Prime agricultural soil is a resource of tremendous importance to coastal agriculture in San Mateo County. While there is a lot of agricultural land on the coastside, prime agricultural soils, as a percentage of total agriculture, is relatively small. Therefore, the importance of maintaining the maximum amount of prime agricultural land for important coastal crops is a priority on the San Mateo County coast. The prime soils in the rural areas of the coast should have, and presently do have, the highest land use priority and protection, consistent with Coastal Act Section 30241. LCP Policy 5.1 provides the following definition of prime agricultural lands (Zoning Regulations Section 6351 provides the same definition). This definition is equivalent to the definition of prime agricultural land in the California Land Conservation Act of 1965 (commonly referred to as the Williamson Act):

5.1. Definition of Prime Agricultural Lands:

- a. All land which qualifies for rating as Class I or Class II in the U.S. Department of*



Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts. b. All land which qualifies for rating 80-100 in the Storie Index Rating. c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture. d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre. e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years.

The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

This definition includes five criteria, only one of which needs to be met to qualify a parcel as prime agricultural land. As discussed further below, although the subject parcel does not qualify as prime agricultural land based on subsections (b) and (c) of the above definition, the subject parcel qualifies as prime agricultural land based on subsections (a), (d) and (e) of LUP Policy 5.1.

With regards to the subsections of LUP Policy 5.1 which do not qualify this subject parcel as Prime Agricultural Land, LUP Policy 5.1(b) states that all land that qualifies for rating 80-100 in the Storie Index Rating is prime agricultural land (this index numerically expresses the relative degree of suitability of a soil for general intensive agricultural use). The subject parcel does not meet the criteria of LCP Policy 5.1(b) because the Storie Index for the soils on the property is 41 and 61.¹ Additionally, LCP Policy 5.1(c) states that land may be considered prime agricultural land if it supports at least one head of livestock per acre. This parcel has not historically been used as grazing land; therefore, it is difficult to determine how many head of cattle or other livestock the land could support. However, it is San Mateo County Farm Bureau Executive Manager Jack Olsen's opinion that this parcel would only support approximately three head of livestock (specifically cattle) per year (approximately 0.17 head per acre). If the parcel was replanted with a good nutritional plant base for grazing, the parcel might support one head of livestock per acre, but this is highly speculative. Thus, the subject parcel does not meet the criteria of LCP Policy 5.1(c).

The subject parcel does qualify as Prime Agricultural land under subsections (a), (d) and (e) of LCP Policy 5.1. First, LCP Policy 5.1(d) applies to land planted with fruit or nut trees or other perennial plants (pers. comm. Robert Blanford, Williamson Act Program, California Department of Conservation). The applicants' Agricultural Land Management Plan (Exhibit 3) states that historical crops on the property have included artichokes. According to Jack Olsen, Executive Manager of the San Mateo County Farm Bureau, artichokes would meet the criteria of LCP Policy 5.1(d) because they are perennial plants that have a non-bearing period of less than five years. The second part of this criterion

¹ Wagner, R.J., and R. E. Nelson. 1961. Soil Survey of the San Mateo Area, California. USDA Soil Conservation Service/University of California Agricultural Experiment Station. 111 pp., plus maps.



requires that the economic return from such use equal not less than \$200 per acre, adjusted for inflation (using 1965 as the base year). The Consumer's Price Index is used to calculate how prices have changed over the years. Using this index, \$200 in 1965 is equivalent to \$1240 in 2005.² According to the 2003 San Mateo County Agricultural Crop Report (which is the most recent Crop Report), artichokes that year produced an average yield of \$4,993 per acre. Thus, if artichokes were grown on this parcel (as they have been in the past), the expected yield would produce an economic return more than adequate to meet the minimal yield stated in LCP Policy 5.1(d). Thus, the soils on the property qualify as prime soils as defined in LCP Policy 5.1(d).

LCP Policy 5.1(e) states that land may be defined as prime agricultural land if it has produced an unprocessed agricultural plant product valued at not less than \$200 per acre within three of the five previous years. The property was in active Brussels sprouts production through the year 2000, prior to the purchase of the property by the applicants. Although there is no available data on the specific agricultural return from Brussels sprouts grown on this parcel during the years 1998 through 2000, the San Mateo County Agricultural Crop Reports for the years 1998 through 2000 show that Brussels sprouts produced an average yield of \$4,264 per acre during those years.³ The second part of the criterion of LCP Policy 5.1(e) requires that the economic return from such use equal not less than \$200 per acre, adjusted for inflation (using 1965 as the base year). Using the Consumer's Price Index as above, \$200 in 1965 is equivalent to \$1,093 in 2000. Thus, the expected yield from active Brussels sprouts production on the parcel in the three years prior to purchase of the parcel by the applicants would have produced an economic return more than adequate to meet the minimal yield stated in LCP Policy 5.1(e). Thus, the soils on the property qualify as prime soils as defined in LCP Policy 5.1(e).

Lastly, LCP Policy 5.1(a) defines prime agricultural land as "all land which qualifies for rating Class I or Class II in the U.S. Department of Agriculture Soils Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts." In this case, the soils at the site are designated as Class III soils by the U.S. Department of Agriculture and are mapped as primarily Elkhorn sandy loam (thick surface, sloping, eroded) with smaller areas of Watsonville sandy loam (sloping, eroded) along the drainage areas on the western side of the property (Exhibit 5). The description of Elkhorn sandy loam soils states: "most of the soil is used for growing Brussels sprouts; some areas are used for flax and grain grown in rotation. When used intensively for truck crops, fair to high yields may be expected." The description of Watsonville sandy loam (sloping, eroded) states "The soil has a wide variety of uses, including dry farming to flax, grain, and grain hay, and some use for Brussels sprouts and other truck crops."

The soils at the subject property qualify as prime agricultural lands under LCP Policy 5.1(a) because they are Class III soils that have been used to grow Brussels sprouts. Additionally, in a September 10, 2003 report to the Planning Commission, County Planning Staff concluded, "Almost the entire project

² Calculation made using the Federal Reserve Bank of Minneapolis's web site: (<http://minneapolisfed.org/Research/data/us/calc/index.cfm>)

³ Brussels sprouts produced an average yield per acre of \$3,024 in 1998, \$4,199 per acre in 1999, and \$5,569 per acre in 2000, for an average yield of \$4,264 per acre for these three years.



parcel is covered with prime soil.” The Agricultural Land Management Plan prepared by the applicants states that the most productive soils are located in the western and northeast portions of the property (Exhibit 3, pg.1).

The applicants retained a soil specialist to perform a site-specific soils survey analysis in May 2004. On-site investigations were performed to further define soils mapped in the 1961 National Soil Conservation Service (NRCS) Soils Survey for San Mateo County. Based on mapping the soils, the applicants’ specialist concluded that the soils within the footprint of the proposed single-family residence are not suitable for Brussels sprouts because of the eroded nature of the soil and the shallow depth to the underlying clay layer. Soils unsuitable for the production of Brussels sprouts are not considered prime soils as defined in the 1961 NRCS Soils Survey for San Mateo County. However, according to a report by Thomas Reid Associates (April 2003), the property has been farmed in the past for straw flowers, leeks, and Brussels sprouts. The Agricultural Land Management Plan (Exhibit 3) prepared by the applicants states that the property has been farmed in row and grain crops since 1900 or earlier and that historical crops have included artichokes, fava beans, Brussels sprouts, leeks, hay, straw flowers and ornamental eucalyptus. Additionally, an aerial photograph taken in June 2000 shows that the majority of the parcel was plowed in preparation for planting, including the area of the parcel where the proposed house would be located (Exhibit 4, pg. 2). Also, according to the County’s November 2, 2000 staff report regarding the Conditional Certificate of Compliance (Type B) to legalize the 17.98-acre parcel, the parcel was cultivated with Brussels sprouts at that time. Additionally, Jack Olsen, Executive Director of the San Mateo County Farm Bureau, is familiar with this parcel and states that the entire parcel consists of prime soil suitable for cultivation of Brussels sprouts. Therefore, although the soils within the proposed footprint of the proposed house may be more eroded than other soils on the site, these and other soils on the parcel were in agricultural use through the year 2000 and are designated as prime soils in the NRCS Soils Survey for San Mateo County. Thus, the soils on the property qualify as prime soils as defined in LCP Policy 5.1(a).

In conclusion, the soils on the parcel meet the definition of prime agricultural land as described in LCP Policy 5.1, subsections (a), (d) and (e).

C. Coastal Issues

1. Agricultural Resources/Locating New Development

Note: Please see Exhibit 6 for Coastal Act Sections 30113, 30241, 30241.5, 30242, and 30108; Exhibit 7 for the certified San Mateo County Land Use Plan Agricultural policies and Locating and Planning New Development Policies; Exhibit 8 for the certified PAD (Planned Agricultural District) zoning regulations.

1.8 Land Uses and Development Densities in Rural Areas

- a. Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts,



either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.

5.1 Definition of Prime Agricultural Lands

Define prime agricultural lands as: a. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts. b. All land which qualifies for rating 80-100 in the Storie Index Rating. c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture. d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre. e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years. The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

5.5 Permitted Uses on Prime Agricultural Lands Designated as Agriculture

a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) nonresidential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.

b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent roadstands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.

5.8 Conversion of Prime Agricultural Land Designated as Agriculture

a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted



use unless it can be demonstrated: (1) That no alternative site exists for the use, (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses, (3) The productivity of any adjacent agricultural land will not be diminished, and (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

5.22 Protection of Agricultural Water Supplies

Before approving any division or conversion of prime agricultural land or other land suitable for agriculture, require that: a. The existing availability of an adequate and potable well water source be demonstrated for all non-agricultural uses according to the following criteria: (1) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with LCP Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel, and (2) each new parcel created by a land division shall demonstrate a safe and adequate well water source located either (a) on that parcel, or (b) on the larger property that was subdivided to create the new parcel, providing that a single well source may not serve more than four (4) new parcels. b. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished. c. All new non-agricultural parcels are severed from land bordering a stream and their deeds prohibit the transfer of riparian rights.

Zoning Code Section 6350. Purpose of the Planned Agricultural District

The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques: (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas, (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, (c) developing available lands not suitable for agriculture before converting agricultural lands, (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

Zoning Code Section 6353. Uses Permitted Subject to the Issuance of a Planned Agricultural Permit

The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural



Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this ordinance. Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore. A. On Prime Agriculture Lands 1. Single-family residences...

Zoning Code Section 6355. Substantive Criteria For Issuance of a Planned Agricultural Permit

It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:

A. General Criteria: 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized. 2. All development permitted on a site shall be clustered. 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.

D. Criteria for the Conversion of Prime Agricultural Lands

1. Prime Agricultural Land within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless it can be demonstrated that: a. No alternative site exists on the parcel for the use, b. Clearly defined buffer areas are provided between agricultural and non-agricultural uses, c. The productivity of any adjacent agricultural land will not be diminished, d. Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

Overview

The protection of agricultural land is a primary goal of the San Mateo County Local Coastal Program (LCP). Of the approximate 88,000 acres in the San Mateo County coastal zone, 70% (approximately 61,000 acres) is zoned *Planned Agricultural District* (PAD). This land is either in active agricultural use or has the potential for such use. The total gross value of San Mateo County agriculture for 2003 was \$180,621,000 (this gross value does not reflect the cost of production). The total gross value, however, does not reflect the real impact agricultural production has on the local economy. For every dollar of agricultural production, a multiplier of 3.5 may be applied. Using this factor, the estimated economic impact of agriculture on San Mateo County for 2003 was \$632,173,500.⁴ Typical agricultural crops grown in San Mateo County include vegetable crops such as Brussels sprouts and artichokes, field crops such as beans and hay, fruit and nut crops, mushrooms, and floral and nursery crops. There are also significant grazing lands in the County. San Mateo County agriculture, however, is threatened by a decreasing amount of land available for agriculture, including a shortage of rental land, high land rental

⁴ *San Mateo County 2003 Agricultural Report.* San Mateo County Department of Agriculture/Weights & Measures.



rates, and ranchette and urban development that leads to the loss of farms and farmland.⁵

The San Mateo County LCP has strong policies designed to protect the significant agricultural economy of the coastal zone, and the productive capability of PAD zoned lands. This includes policies that generally prohibit the subdivision of prime agricultural land and that severely limit the circumstances under which agricultural lands may be converted to non-agricultural uses. The core LCP agricultural protection Policy 1.8(a), in relevant part, states:

Allow new development . . . in rural areas only if it is demonstrated that it will not . . . diminish the ability to keep all prime agricultural land and other land suitable for agriculture . . . in agricultural production.

In addition to the designation of a considerable acreage of rural lands in the Planned Agricultural District, the LCP protects agricultural lands by establishing clear urban/rural boundaries and by limiting the types, locations, and intensities of new development on agricultural lands to those that will not adversely affect agriculture. The LCP Agricultural protection policies are further implemented by the PAD zoning regulations, the purpose of which is to “preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land in agricultural production, and . . . [to] minimize conflicts between agricultural and non-agricultural land uses.” Together, the LCP’s agricultural component and the PAD implementation regulations provide a comprehensive program that gives agricultural land uses and development a clear and overriding priority on the rural San Mateo County rural coastside.

As discussed above, the applicants are proposing to construct an approximately 6,785 square foot single-family residence and related development on rural PAD land that has historically been in agricultural production. Although the applicants have proposed an agricultural management plan (Exhibit 3), which would continue agriculture on the parcel in a limited form, the project raises fundamental questions about the conversion of rural land from agriculture to residential use. It is important, therefore, to fully understand the letter and intent of the San Mateo County LCP with respect to this issue, particularly concerning the potential conversion of prime agricultural lands, such as is proposed in this case. In particular, it is useful to see how the LUP’s agricultural component and PAD zoning regulations derive from the Coastal Act agricultural protection policies.

The Coastal Act Policy Framework

The Coastal Act protects coastal agriculture first and foremost by requiring that “new development be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it . . .” (Section 30250(a)). This requirement to concentrate urban development in existing urban areas establishes the fundamental framework for assuring that new urban development, including urban services, are not located in rural coastal areas where the protection of agricultural, scenic, biological, and other coastal resources is paramount. Coupled with this framework for limiting urban development to existing developed areas, the Coastal Act requires the establishment of stable urban-rural boundaries

⁵ *San Mateo County Agricultural Industry Profile & Strategic Farmland Maps, Final Report.* American Farmland Trust, 2004.



to assure that urban sprawl from existing urban areas does not overtake rural agricultural areas. The Coastal Act also requires that the maximum amount of prime agricultural land be maintained in agricultural production, and that the conversion of agricultural land be limited to instances where agriculture is no longer feasible or where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where conversion of agricultural lands would complete a logical neighborhood and contribute to the establishment of a stable limit to urban development or would concentrate development in urban areas. Specifically, Coastal Act Section 30241 states:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the area's agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following: (a) By establishing stable boundaries separating urban and rural areas, including, where necessary clearly defined buffer areas to minimize conflicts between agricultural and urban land uses. (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development. (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250. (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands. (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality. (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

The clear intent of section 30241 is to maintain prime agricultural land in agricultural production and assure that agricultural land is not converted to non-agricultural land uses except in limited circumstances on the periphery of designated urban areas. Thus, the presumption inherent in Coastal Act Section 30241 is that conversion of agricultural lands is prohibited unless there is some basic incompatibility or conflict with immediately adjacent urban land uses that makes agricultural use no longer viable, or unless conversion would complete a logical urban area and/or help to establish a stable urban-rural boundary that better protects agricultural land.⁶

The Coastal Act also contemplates that both the identification and protection of agricultural land, and its possible conversion to non-agricultural land uses, will be specifically addressed through LCP planning.

⁶ Coastal Act section 30113 defines prime agricultural land as those lands defined as prime in sections (1), (2), (3), and (4) of Williamson Act section 51201(c). This includes: (1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications. (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating. (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture. (4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.



In particular, the Coastal Act contemplates that in conjunction with the identification of urban-rural boundaries, agricultural lands will be designated and restricted to agricultural land uses, unless a future LCP amendment is approved that allows the conversion of the land to non-agricultural uses. Coastal Act section 30241.5 identifies a viability test for conversion of agricultural lands around the urban periphery when conversion is an issue in any LCP or LCP amendment. By its terms, section 30241.5 applies only to certain agricultural land conversions controlled by section 30241(b), i.e., “conversions of agricultural lands around the periphery of urban areas....where the viability of existing agricultural use is already severely limited by conflicts with urban uses.” Because Section 30241(b) is not limited in its application to prime agricultural lands, section 30241.5 is not so limited. Rather, sections 30241 and 30241.5 apply to all agricultural lands on the urban periphery that are proposed for conversion. The analysis required by section 30241.5 to support conversion of agricultural lands must include an economic evaluation of the gross revenue and operational costs, excluding land values, of the crops in the geographic area of the proposed land conversion.

In comparison to section 30241 and its focus on conversions of agricultural lands around the urban fringe and creating a stable urban-rural boundary, Section 30242 addresses conversions of land suitable for agriculture in all locations. Coastal Act section 30242 states:

All other lands suitable for agricultural use shall not be converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30242 states rules to be applied for conversion of “all other lands suitable for agricultural use, “ i.e., all conversions not addressed by the general Section 30241 policy against prime land conversions (“the maximum amount of prime agricultural land shall be maintained in agricultural production...”) or the specific conversion standards of section 30241 and 30241.5. Section 30242 includes no direct requirement for considering the resulting stability of the urban limit and in general provided a different standard of review than does 30241(b). Notably, section 30242 does not deal with “agricultural land,” but rather with “all other lands suitable for agriculture.” One of the tests for conversion of such land is that agricultural use cannot feasibly be continued or renewed. This wording indicates that the policy was intended to be broadly applied, even to land that is not currently in agricultural use.

In summary, the Coastal Act provisions on conversion of agricultural lands are as follows: Prime agricultural lands are to be maintained in production. Prime and non-prime agricultural lands either on the urban periphery or surrounded by urban uses may be converted if they satisfy standards stated in subsections (b) and (c) of Section 30241, as well as other applicable provisions of the Coastal Act. All other lands suitable for agricultural may be converted only if conversion is consistent with section 30242 and other applicable provisions of the Act. When an LCP or LCP amendment proposes conversion of any agricultural land on the urban periphery under the viability provision of section 30241(b), the viability tests of section 30241.5 also must be satisfied.



The Agricultural policies of the San Mateo County LCP

The San Mateo County LCP carries out the requirements of Coastal Act Sections 30241, 30242, and 30250, through strict land use and zoning policies designed to maintain the maximum amount of agricultural lands in agricultural production and to concentrate development in existing urban areas and rural service centers. To address the Coastal Act requirement to concentrate new urban development in existing developed areas and establish stable urban-rural boundaries, LUP Policy 1.16 defines the urban-rural boundary as a stable planning line, and requires the LCP maps to designate this line. LUP Policies 1.3 through 1.8 provide definitions for the urban and rural areas and specify the land uses and allowable development densities in urban and rural areas. As referenced earlier, LUP Policy 1.8(a) is a core policy for agriculture that implements Coastal Act Sections 30241 and 30242 by requiring that new development in rural areas be allowed *only* if it is demonstrated that it will not have significant impacts on coastal resources, nor diminish the ability to keep all prime agricultural lands and other lands suitable for agriculture in agricultural production.

In addition to the general urban-rural planning framework of the LCP, the policies of the LUP's Agriculture component closely map the Coastal Act. First, LUP policies 5.1-5.4 define and require the designation of prime agricultural land and other land suitable for agriculture. The LCP definition of prime land is based on the Williamson Act, consistent with Coastal Act section 30113 (see above for detail). Second, LUP policies 5.5-5.10 strictly limit the circumstances under which agricultural land can be subdivided or converted to non-agricultural land uses. The permitted and conditional land uses allowed on agricultural lands is also strictly limited (see Exhibit 7 for full policy text).

The LUP agricultural policies also are implemented by the PAD zoning regulations (Exhibit 8), which provide detailed regulations for new development proposed on PAD lands. Consistent with the Coastal Act, LUP Policy 1.8(a), and the LUP Agricultural component, the purposes of the PAD regulations are:

1) to preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses.

LUP Policies 5.5(a) and 5.6(a) and corresponding Zoning Code Section 6352 specify the limited range of principal permitted uses that are allowable on prime agricultural lands and other lands suitable for agriculture. For example, LUP Policy 5.5(a) states:

5.5(a). Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) nonresidential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and



additions to existing single-family residences.

Significantly, all of these principally permitted uses are either agricultural production or are directly related to agricultural production or existing residential development on an AG parcel. New residential development, whether agriculturally related or not, is not a principally permitted use on either prime agricultural lands or other lands suitable for agriculture.

LUP Policies 5.5(b) and 5.6(b) and Zoning Code Section 6353 specify the conditionally permitted uses allowable on agricultural lands. Most of these conditionally permitted uses are uses that are ancillary to or supportive of agricultural production and are therefore clearly consistent with the above-cited LCP and Coastal Act policies that require the maximum amount of agricultural lands to remain in agricultural production. However, some of the conditionally permitted uses specified in the LUP and zoning code are not ancillary to or supportive of agricultural production, including oil and gas exploration and production, commercial woodlots and temporary storage of logs, and “single-family residences.” Similarly, on other lands suitable for agriculture, these uses plus multi-family affordable housing, public recreation/shoreline access trails, schools, fire stations, commercial recreation, aquaculture facilities, wineries, and timber harvesting are all conditionally permitted.

The LCP allowance for certain uses on agricultural lands that are not ancillary to or supportive of agricultural production derives from other overriding Coastal Act requirements that also apply to agricultural lands. First, the provision allowing oil and gas exploration and development is derived from Coastal Act Section 30260, which expressly overrides the coastal resource protection policies of the Coastal Act in specified circumstances to allow oil and gas development and other coastal-dependent industrial development in the coastal zone, even when inconsistent with other Coastal Act policies.⁷

Similarly, coastal access, recreation, and aquaculture are all priority uses under the Coastal Act, and the Coastal Act requires protection of timberlands. By allowing coastal access and recreation trails, commercial recreation, aquaculture, commercial woodlots, and temporary storage of logs on agricultural lands as conditionally permitted uses, the LCP strikes a balance between these Coastal Act priorities and the protection of agricultural lands. Consistent with Coastal Act sections 30222, 30241 and 30242, the LCP gives precedence to agricultural land protection over these other Coastal Act priority uses on agricultural lands by specifying that these conditionally permitted uses may only be authorized on agricultural lands provided they meet the LCP requirements for conversion of agricultural land to non-agricultural land uses (see below).

With respect to residential development, the LCP clearly provides for improvements to and maintenance of existing residences on PAD lands by designating such uses principally-permitted. New residential development, though, is a conditionally permitted use in the PAD zone, in recognition of the fact that

⁷ Section 30260 states that where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.



residential development has the potential to undermine the protection of agricultural land by taking land out of agricultural production, as well as the fact that residential development is neither a Coastal Act priority nor is there a provision in the Coastal Act that overrides the Coastal Act resource protection policies in favor of residential development.

The LCP's allowance for new residential development as a conditionally permitted use rather than a principally permitted use is further clarified by looking to the Commission's intent in the certification of the San Mateo County LCP. The Coastal Commission's findings for the certification of the County's LCP specifically address this issue, stating:

The County has limited conditional use conversions of prime lands either to uses that are essential to farming (e.g., the farmer's personal residence, farm labor housing) or to public recreational use.

As expressed in this finding, the intent of the LCP is only to permit residential development on prime agricultural lands when the development is somehow integral to or essential to supporting farming on the land in question. Housing to support the farmer or farm labor housing would fall into this category. Allowing farmer or farm labor housing is supportive of continued agricultural use of prime agricultural land in that it allows the farmer to reduce costs and have direct access to the land being farmed. Thus, the LCP provides that a farmer's personal residence and farm labor housing may be permitted on agricultural lands where there is no alternative site and when all other requirements of the PAD zoning district can be met. Restricting conversion of agricultural land to residential use for farmers or farm laborers provides consistency with Coastal Act Section 30241 and LCP Policy 1.8(a) because it maintains the maximum amount of prime agricultural land in agricultural production. This interpretation is supported not only by the findings for the certification of the LCP agricultural policies, but it allows the LCP to be read as internally consistent because the development of farmer and farm labor housing is consistent with the LCP requirement to retain the maximum amount of agricultural lands in agricultural production.

Additional reasons for the conditional use designation for residential structures are rooted in the inherent incompatibility of residential and agricultural land uses. Typical incompatibility issues raised where urban and agricultural lands meet include noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such incompatibilities can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns with standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may post a threat to the non-agricultural uses.

The interpretation of the LCP with respect to allowable uses on PAD lands is a critical first step in an evaluation of the applicants' project. As discussed above, the certified LCP provides numerous policies for the protection of agricultural land in the rural areas of San Mateo County. In particular, conversion



of agricultural lands to non-agricultural conditional uses is prohibited unless consistency with a number of criteria can be met. In order to approve non-agricultural development on agricultural land, the proposed conditional use must not diminish the ability to keep all prime agricultural land and other land suitable for agriculture in production, must provide clearly defined buffers between the non-agricultural use and agricultural uses, must not diminish the productivity of adjacent agricultural land, and must not impair agricultural viability, including by increased assessment costs. If any one of these findings cannot be made, then the proposed conditional use is prohibited.

The proposed residence is a conditional use under LUP Policy 5.5(b). Zoning Regulations Section 6353 requires the issuance of a Planned Agricultural Permit for conditional uses on PAD-zoned land, and Zoning Regulations Section 6355 provides substantive criteria that the applicants must meet prior to issuance of a Planned Agricultural Permit. These criteria support the purpose of the Planned Agricultural District, which is to preserve and foster existing and potential agricultural operations in order to keep the maximum amount of prime agricultural land in production and to minimize conflicts between agricultural and non-agricultural uses. Additionally, LUP Policy 1.8(a) requires that new development be allowed in rural areas only if it will not diminish the ability to keep *all* prime agricultural land in production. Consistent with this requirement, LUP Policy 5.8(a) establishes four criteria that must be met before prime agricultural land can be built upon (“converted”) for a conditionally permitted use, as follows:

(1) That no alternative site exists for the use; (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses; (3) The productivity of any adjacent agricultural land will not be diminished, and; (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

Taken together, the LCP’s agricultural policies and zoning regulations require minimizing encroachment of development on agricultural land, as well clustering development on an agricultural site. Additional requirements include ensuring that the productivity of adjacent agricultural land will not be diminished, that the permitted use will not impair agricultural viability via increased land assessment costs, and that the maximum amount of agricultural land be kept in production. In this case, the proposed 6,785 square foot residential structures and associated pool, patio, and landscaping occupy approximately 2 acres of prime agricultural land on the parcel (see Exhibit 2, pg. 1). The proposed large-scale residential development does not constitute a farmhouse (the applicants are not farmers) and thus is not incidental to agricultural uses on the property. Furthermore, the proposed development does not minimize encroachment of agricultural land on the parcel, inconsistent Zoning Regulations Section 6355. Additionally, the project is inconsistent with LUP Policy 1.8(a) and Zoning Regulations Section 6350 in that, due to its size and sprawling nature, the proposed project diminishes the ability to keep the maximum amount of prime agricultural land in production. Additionally, as discussed below, large-scale residential development on agricultural parcels has the effect of raising surrounding land values such that it becomes prohibitively expensive to continue farming on surrounding parcels. Thus, the project is additionally inconsistent with LUP Policy 5.8(a)(3), which requires that the productivity of adjacent agricultural land will not be diminished by conditional development, and with LUP Policy



5.8(a)(4), which requires that permitted uses shall not impair agricultural viability by increased assessment costs (also, see below).

Non-agricultural residential development on agricultural lands

As discussed above, a core policy concern of the Coastal Act is the protection of coastal agriculture through the limitation of non-agricultural land uses on agricultural lands. The original Coastal Plan that formed the basis for the Coastal Act identified this concern, including the issue of land speculation and valuation that could effectively undermine the goal of maintaining agricultural lands. Akin to the Williamson Act concern for not valuing agricultural land at non-agricultural prices, the Coastal Act evinces a concern for the protection of an area's agricultural economy, and an assurance that increased assessments due to public services or non-agricultural development do not impair agriculture (30241; also 30241.5).

The Commission has recently addressed the concern for the trend towards development of large rural residential projects in agricultural areas in the Periodic Review of the San Luis Obispo County LCP. In particular, the Commission adopted recommendations that the SLO County LCP be amended to establish stronger standards for non-agricultural residential development on agricultural lands, including performance standards for the size of development envelopes and other constraints that would better maintain lands in agricultural production (see Recommendation 5.8 of Commission's Adopted Periodic Review of SLO County LCP).

In contrast to residential development that is incidental to and/or in support of agricultural production, such as farmer and farm labor housing, the development of non-farming related single-family homes on agricultural lands is contrary to the goal of keeping agricultural lands in agricultural production. Given increasingly high housing costs, agricultural use cannot compete with the use of land for residential development even on a large un-subdivided farm parcel or ranch on the San Mateo County coast. The recent trend to develop large expensive homes on such properties exacerbates this problem by increasing the speculative value of these large parcels in the scenic rural coast side as sites for such homes. The development resulting from these pressures is widely recognized as contributing to the loss of agricultural production on agricultural land in conflict with the LCP requirement to maintain the maximum amount of agricultural land in agricultural production.

The loss of available lands for farming to residential development is now being recognized as a national trend and many states, including California, have recently taken actions in attempt to curb this "rural sprawl." The American Farmland Trust views rural residential sprawl as a major threat to farm production stating:

The majority of the Central Valley's population lives in urban areas totaling more than 1,236 square miles. Yet that number does not tell the full story. What are not counted are the rural-residential parcels. These residences, also known as "ranchettes," dot the rural landscape and affect everything from routine farming practices... a ranchette removes more farmland from



agriculture than any higher density suburban dwelling.⁸

And:

The subdivision of land into ranchettes fuels speculation that drives up the cost of land and eventually makes it unaffordable for commercial agricultural production. The proliferation of rural residences throughout agricultural areas also poses a very real risk, right-to-farm laws notwithstanding, that agricultural insurance premiums will rise and that farming practices may be further regulated to protect public health and safety. Thus, agricultural policy should also address the need to significantly reduce scattered, rural development.

Greater certainty about land use expectations is critical to both farmers and developers. Places to farm and places to build should be clearly delineated, mutually exclusive and consistently enforced... [This] will also insulate agricultural production from speculation and other pressures exerted by urban proximity, and encourage reinvestment in California agriculture to meet the demands of a changing global marketplace.⁹

In its literature concerning agricultural conservation easements, as further discussed below, California FarmLink states:

Agricultural conservation easements may also limit the size of any single-family house to be build on the property with the intent to ensure that the house will be used by a true farmer instead of a "gentleman" farmer. An owner predominantly depending on agricultural income will presumably not be able to afford a significantly larger than average size house (i.e. 4,000 sq. ft.). If such an estate home were built, a farmer looking to purchase the land in the future would be priced out of the market.

The New Jersey Farmland Affordability/Availability Working Group observed:

The viability of New Jersey's agricultural industry depends on ensuring that farmland is affordable and available to new and established farmers. If farmers don't have access to farmland they can't farm.

Under the State Agricultural Retention and Development Act, the investment of Public Funds is intended to preserve land and strengthen the viability of agriculture. Estate situations – where the landowner does not farm the land or only minimally farms it – run counter to that purpose. To maintain public confidence in the Farmland Preservation Program and ensure preserved farmland remains available and affordable to farmers, the issue of housing on preserved farms needs to be addressed.¹⁰

Measures identified to address this issue include: (1) prohibiting all non-farm dwellings on agricultural

⁸ Ranchettes: the Subtle Sprawl. A Study of Rural Residential Development in California's Central Valley, AFT 2000.

⁹ Suggestions for an Agricultural Component of Governor Arnold Schwarzenegger's Smart Growth Initiative. AFT. May 2004.

¹⁰ Recommendations of the New Jersey Farmland Affordability/Availability Working Group. September 23, 2004.



lands, (2) limiting the size of new homes on agricultural lands, and (3) requiring agricultural conservation easements that ensure that land remains *in* agricultural use as opposed to simply remaining *available* for agricultural use. These measures have been adopted or are currently under consideration by many jurisdictions throughout the state and nation. As further discussed below, the Commission finds that such measures are necessary to ensure that the proposed development conforms to the agricultural protection requirements of the County's LCP.

Conditionally Permitted Residential Housing on Agricultural Lands Must Not Diminish the Productivity or Viability of Agricultural Land or the Ability to Keep Agricultural Land in Production.

As stated above, the construction of non-farming related single-family homes on agricultural lands is inconsistent with requirements of the LUP Policies 1.8, 5.8, 5.11 and Zoning Code Section 6350 which, among other things: (1) allow new development in rural areas only if it is demonstrated that the development will not diminish the productivity or viability of agricultural land or the ability to keep all agricultural lands in agricultural production, and (2) minimize conflicts between agricultural and non-agricultural land uses. Contrary to these requirements of the LCP, construction of homes that are not supportive of agricultural use on agricultural properties reinforces the market incentives to develop new homes on agricultural properties, diminishing the ability to keep agricultural lands in production and increasing conflicts between agricultural and residential land uses. In order to meet the LCP requirements to maintain the maximum amount of agricultural land in production and to minimize conflicts with other land uses, the Commission finds that measures must be implemented to discourage the continuation of the trend to treat agricultural lands as new home sites, where agricultural use becomes secondary to residential development.

One alternative to address this issue would be to adopt a policy like the Oregon Agricultural Land Use Policy. Under this policy, persons living on "high-value farmland" must be actively engaged in commercial agricultural production and must demonstrate a minimum annual gross income from farming of the property of \$80,000. As stated by the Oregon Department of Land Conservation and Development: "while \$80,000 is far below the average income of commercial farms, it is enough to sort farmers from people just looking for a home in the country."¹¹

Similar to Oregon's policies and as discussed above, the LCP only permits residential development on agricultural lands where the development does not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production. The Commission's findings for the certification of the LCP support the interpretation of these policies to mean that residential development on farmland is limited to farmer and farm labor housing. However, even though this interpretation of the LCP policies is supported by the Commission's findings and would provide internal consistency to the LCP agricultural protection policies, the LCP does not expressly prohibit non-farm dwellings on agricultural lands. As such, the Commission finds the LCP also allows conditionally permitted residential housing on agricultural lands only if it does not diminish the productivity or viability of

¹¹ Using Income Criteria to Protect Commercial Farmland in the State of Oregon. Oregon Dept. of Land Conservation and Development.



agricultural land or the ability to keep agricultural land in production.

Rural House Size Limit

The speculative value of agricultural land for residential development is driven in large part by the demand for very large homes. As shown below, most of the recently constructed homes in the PAD zone are, like the proposed development, several times larger than the typical house size in this zoning district. The Commission finds that the market pressures to convert agricultural lands to residential development sites can be effectively reduced by limiting the size of new homes. Conversely, the Commission finds that not restricting the size of new homes on farmland would contribute to the pressure to develop farmland and lead to further loss of agricultural production in conflict with the requirements of the LCP.

In 2002, the San Mateo County Board of Supervisors directed County staff to develop a proposal for limiting the height and floor area of new single-family residences in the rural portion of the County's coastal zone. During their evaluation, County staff found that the size of new houses in the rural zoning districts increased from an average of 2,484 square feet in 1993 to 4,926 square feet 1998. In several reports to the County Agricultural Advisory Board and Planning Commission in 2002, County staff described the issue as follows:

The principle intent of the PAD zoning district is preserve and foster existing and potential agricultural operations and minimize conflicts between existing agricultural and non-agricultural land uses. The PAD allows some non-agricultural uses, such as single-family residences, under strict conditions through the issuance of use permits.

The PAD does not foster or encourage the development of large, single-family residences for non-farm working families. Although, as documented, three have been proposed in the past year and several have been built since the PAD was established in 1980.

County staff also determined that:

General Plan policies and the Zoning Regulations provide strong justification to limit the size and height of single-family residences in order to minimize negative environmental effects on the preservation of agriculture and open space. They also provide strong justification to regulate the design of these residences.

The General Plan's Local Coastal Program policies in particular require that all development in the rural areas blend and harmonize with the natural environment so that it is subordinate and unobtrusive. It is debatable as to whether most of the large single-family residences that have been approved in the past ten years are as subordinate to the natural environment or as unobtrusive as possible.¹²

¹² County of San Mateo, Environmental Services Agency Planning and Building Division. Memo from Planning Staff to Planning Commission dated June 25, 2002. County File Number PLN 2002-00327.



Commission staff provided comments to the County in response to the proposed rural house size limit suggesting that in order to determine a size limit that would meet the requirements of the LCP the County should take into consideration the scale and character of existing residences in this area. Unfortunately, the County did not complete this evaluation and never adopted a rural house size limit. Thus, although the County has expressed concern about the trend of large single-family home construction on agricultural lands and the negative effects of such development on continued agricultural use of such lands, it has not yet taken action to address this issue and a rural house size limit has not been established.

In order to determine what the size limit for residential development should be to carry out the LCP agricultural protection policies, Commission staff reviewed all available records for existing residential development in the PAD zone for the County. These data show that the average size of existing single-family residences within the PAD zone is substantially smaller than the proposed development, but that in the past eight years several very large homes have been constructed. These data are summarized in the table below:

Table 1

Total No. of Developed Parcels	165
Median size	2,271 sq. ft.
Average size	2,677 sq. ft.
Minimum size	390 sq. ft.
Maximum size	21,000 sq. ft.

These data also show:

- 75% of residences are 3,000 sq. ft. or less
- 88% of residences are 4,000 sq. ft. or less
- 94% of residences are 5,000 sq. ft. or less

As shown in Exhibit #9, several large single-family residences have been constructed during the last eight years in the PAD zone, including two projects that were approved by the Commission on appeal (e.g., Blank and Lee). Nevertheless, these permit records also show that only three of the 165 single-family residences in the PAD zone exceed 7,000 square feet (10,250 square feet, 15,780 square feet and 21,000 square feet). Thus, while several large homes have recently been constructed in the PAD zone that are similar in size or larger than the proposed development, these developments greatly exceed the scale of typical residences in the PAD zone and the development of such large homes is a relatively recent trend. As such, these data validate the concerns expressed by the County of increasing pressure to build large non-farm related residences on coastal farmland.

The Commission finds that to meet the requirements of LUP Policies 1.8, 5.8, 5.11 and Zoning Code



Section 6355 of the certified LCP to: (1) preserve and foster existing and potential agricultural operations in order to keep the maximum amount of agricultural land in agricultural production, (2) minimize conflicts between agricultural and non-agricultural land uses, (3) minimize the encroachment of non-agricultural development on agricultural lands, (4) ensure that residential development does not impair agricultural viability including through increased assessment costs, and (5) ensure that residential development on farmland does not diminish the productivity of any adjacent agricultural land, (i.e. that it is incidental to and in support of continued agricultural use of the land,) the proposed new residential development should not exceed the typical scale of existing residential development on agricultural lands in the County. Although the Commission has allowed some large non-agricultural residences to be constructed within the rural San Mateo County coastal zone, the Commission, like other agencies throughout the state and nation, now recognizes that such development threatens continued agricultural use of agricultural lands and is in conflict with the LCP agricultural land use protection policies and zoning. Accordingly, Special Condition #1 limits the proposed residence to a maximum internal floor area of 2,500 square feet.

The 2,500-square-foot limit imposed under Special Condition #1 not only conforms to the typical scale of existing residential development in the PAD zone (median 2,271 square feet, average 2,677 square feet), it also conforms to the limit recently established under the California Land Conservation Act (Williamson Act). In response to an increase in the conversion of agricultural lands to development sites for large single-family homes and the related loss of agricultural lands, the Williamson Act was amended in 2004 to limit the size of new single-family homes on parcels under Williamson Act contracts to 2,500 square feet (AB1492- Laird). Under this amendment, new residential development must also be “required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel.”¹³ A Fact Sheet prepared by the California Department of Conservation describes these changes as follows:

Does AB 1492 repeal the Williamson Act?

No, AB 1492 provides enhanced penalties for a material breach of contract and extends the date of the lot line adjustment provisions. AB 1492 contains no new restrictions on uses allowed under the Williamson Act, existing contracts or local uniform rules or ordinances.

What is a “material breach of contract”?

Government Code §51250(b) defines a material breach on land subject to a Williamson Act contract as a commercial, industrial or residential building(s), exceeding 2,500 square feet that is not permissible under the Williamson Act, contract, local uniform rules or ordinances. AB 1492 only applies to structure(s) that have been permitted and constructed after January 1, 2004.

Does AB 1492 mean that I can now develop my Williamson Act property as long as none of the buildings exceed 2500 square feet?

¹³ California Department of Conservation, Division of Land Resource Protection
Williamson Act Program Frequently Asked Questions
http://www.consrv.ca.gov/DLRP/lca/FAW/AB_1492_FAQ.htm



No. Any development on property subject to a Williamson Act contract must be incidental to the primary use of the land for agricultural purposes and in compliance with local uniform rules or ordinances.

What does “incidental to the agricultural use of the land” really mean?

A use is incidental when it is required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel. Compatible uses on Williamson Act lands are defined in GC§51201(e). Additionally, each participating local government is required to adopt rules consistent with the principles of compatibility found in GC§§ 51231, 51238 and 51238.1.

Does AB 1492 prohibit me from building a house larger than 2500 sq. ft.?

Not necessarily. Homesites are allowed on contracted land but are limited in purpose and number and must be incidental to the agricultural use of the land. In addition, any homesite on land subject to a Williamson Act contract must be in compliance with local uniform rules or ordinances.

Thus, under the Williamson Act, residential development on agricultural land that exceeds 2,500 square feet is allowable only if the residence is “required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel.” These changes establish a statewide standard for the allowable size of residential development incidental to the primary use of the land for agricultural purposes on an agricultural parcel under a Williamson Act contract, which can only be exceeded if specific requirements are met. The Commission finds it significant that the legislature, through amending the Williamson Act, established 2,500 square feet as the size of residential development considered incidental to agricultural use. In addition, the New Jersey Farmland Affordability/Availability Working Group has also recommended establishing a 2,500-square-foot limit for new residential development on farmlands in order to address the issue of residential development on preserved farmland.

Also, several studies evaluating the size of single-family residences nationally report that the average size of single-family residences ranges from 2,100 to 2,200 square feet. In comparison, the median and average sizes of residential development (2,271 square feet and 2,677 square feet, respectively) on agricultural land in San Mateo County is generally consistent with these national data, and the building size limit of 2,500 square feet established in the Williamson Act. When compared with other San Mateo agricultural properties, the 6,785 sq. ft residential development proposed by the applicant is roughly two-and-a-half times larger than most other residences constructed on agricultural lands.

In order to reduce the pressures for and discourage the development of residential land uses on agricultural lands that are not supportive of continued agricultural use, the Commission finds it necessary to limit the proposed residence to 2,500 square feet. This restriction will help to ensure that only residential development that does not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production is constructed on agricultural lands. A 2,500-square-foot limit would better meet the requirements of the LCP while still allowing a reasonable residential development that is comparable to most of the single-family homes in this zoning district. This 2,500-



square-foot limit is also similar to and consistent with local, state, and national data regarding the sizes of residential development on agricultural properties and the limits placed on residential development on farmlands under the Williamson Act.

Development Envelope

Zoning Regulation Sections 6355.A.1 and 2 require encroachment of all development upon lands suitable for agriculture to be minimized and require non-agricultural development on PAD zoned lands to be clustered. To meet the requirement, the overall footprint of the proposed residence and all appurtenant non-agricultural development must be confined to a specifically defined development envelope. The establishment of this residential development envelope is necessary to ensure that the residence and related development displace the minimal amount of agricultural land necessary and are incidental to agriculture, while still allowing a reasonable residential development.

Typical conforming lots in the residentially zoned areas of the San Mateo County coast range from 5,000 square feet to 10,000 square feet. A 5,000-square-foot lot readily accommodates a 2,500-square-foot single-family residence and all appurtenant development such as landscaping, swimming pools, accessory structures, second residential units, guest units, etc. As such, limiting the residential component of the proposed development to a 5,000-square-foot envelope consistent with the minimum lot size allowable in the R-1 district would allow a reasonable residential development. However, the Commission finds that given the total size of the development site relative to the development envelope, a development envelope in the upper end of the range of lots in the residential zoning districts (10,000 square feet), would still achieve the LCP requirement to minimize the encroachment of development on agricultural lands. Therefore, Special Condition #1 requires the proposed residential development to be confined to a 10,000-square-foot development envelope. Pursuant to this condition, the 10,000-square-foot limit would not include the driveway. To further minimize encroachment on agricultural land, the 10,000 square foot development envelope must be located as close to Bean Hollow Road as possible, while avoiding structural encroachment upon existing inactive ditch easements. Special Condition #1 further limits the 10,000 square foot development envelope to the “potential building area” on the parcel shown in Exhibit 10.

Agricultural Conservation Easement

LUP Policy 5.16 requires that as a condition of any subdivision of an agricultural parcel the applicant must grant to the County and the County must accept an easement that limits the use of the land to agricultural uses, non-residential development customarily considered accessory to agriculture, and farm labor housing. Such easements are usually referred to as agricultural conservation easements.

Although the proposed development does not include subdivision of the parcel, conditioning the project to require the application of an agricultural conservation easement on the property will ensure that the area of the property outside of the development envelope will remain in agricultural use. Special Condition #2 requires the applicant to either dedicate or record an offer to dedicate to an appropriate public or private entity acceptable to the Executive Director an agricultural conservation easement affecting all areas of the property outside of the approved development envelope.



While agricultural conservation easements typically prohibit development of agricultural land, they do not necessarily ensure that the land will continue to be farmed. To accomplish this, an easement must include an affirmative farming requirement in addition to development prohibitions. Without a clause requiring continued agricultural use, an easement can only guarantee the protection of open space but cannot guarantee the land will remain in agricultural use. In recognition of this shortcoming, affirmative farming clauses are included in agricultural conservation easements. Marin County is currently considering such an easement as a condition for the approval of a non-farming related single-family residence on an agricultural property near the town of Bolinas (Moritz). The organization California FarmLink, which works with land trusts in the state to secure agricultural conservation easements and to match easement holders with farmers seeking available farmland, has developed a sample easement with such language. This sample easement was based in part on easements that are in place in the state. FarmLink advocates the inclusion of an affirmative farming requirement in agricultural conservation easements, stating:

While many individuals who have signed agricultural conservation easements can rest easy with the thought that their land will be protected, they may have never considered the possibility that someone might someday buy the farm solely for the purpose of enjoying the views and the peace and quiet of a rural environment.

In order to ensure that the property remains in agricultural use consistent with the LCP requirement to maintain the maximum amount of agricultural land in agricultural production, Special Condition #2 specifies that the required agricultural conservation easement shall include an affirmative farming clause. LUP Policy 5.16 includes a provision allowing lands covered by an agricultural conservation easement to be converted to open space if changed circumstances beyond the control of the land owner or operator have rendered the property unusable for agriculture and upon certification of an LCP amendment changing the land use designation to open space. Consistent with this provision, the affirmative farming clause would only remain in effect as long as agricultural use of the property is feasible.

Right To Farm

As discussed above, conflicts may occur between residential and agricultural land uses when in close proximity. Typical conflicts where urban and agricultural lands meet include noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such conflicts can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns with standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may post a threat to the non-agricultural uses.

To ensure that such conflicts do not impair the continued viability of agricultural production, LUP Policy 5.15 and Zoning Code Section 6361.D establish a right to farm provision, stating:



When a parcel on or adjacent to agricultural land is subdivided, the following statement shall be included as a condition of approval on all parcel and final maps and in each parcel deed.

“This subdivision is adjacent to property utilized for agricultural purposes, and residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occasionally generate dust, smoke, noise and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.”

To ensure that the conflicts between the proposed residential development and agricultural production on the project site as adjacent properties do not impair the continued viability of agricultural uses on these lands, Special Condition #3 requires the applicant to record a deed restriction meeting the requirements of above cited LCP policies.

Agricultural Buffer

LUP Policy 5.8(a)(2) requires that “clearly defined buffer areas are provided between agricultural and non-agricultural uses.” The purpose of this policy is to avoid negative impacts to agriculture due to complaints from nearby residents of adjacent parcels regarding ongoing normal agricultural operations. For example, the proximity of a single-family residence on a parcel adjacent to agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations – cultivating, spraying, harvesting, et al.) could jeopardize the continued agricultural activities should complaints arise from residents of the single-family home. An appropriate buffer is especially relevant in the area of the project site because of the high prevailing westerly winds that may bring noise, dust, and odors from the adjacent farming operations to this site. The LCP, however, does not require a specific buffer in terms of number of feet between residential and agricultural use (the Santa Cruz County LCP requires a minimum buffer of 200 feet between residential and agricultural use; this buffer may be reduced if certain findings are made). The San Mateo County Farm Bureau does not recommend any specific buffer between residential and adjacent agricultural use (pers. comm. Jack Olsen, Executive Director). The revised house location, required pursuant to Special Condition #1 and shown on Exhibit 10, would provide a buffer greater than 400 feet from agricultural use on adjacent parcels to the north and west, and a greater than 100-foot buffer from the parcel to the south. The revised house location will be located at least 70 feet from the agricultural parcel directly across Bean Hollow Road to the east. This buffer should be adequate given that the prevailing winds come from the west. Thus, the revised project provides adequate buffers between the proposed residential use and adjacent agricultural use, consistent with LCP Policy 5.8(a)(2).

2. Wetlands

San Mateo County LCP Policy 7.3 provides for the protection of sensitive habitat areas, including wetlands, and states:



(a) Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas; (b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

LCP Policy 7.14 (in part) defines “wetland” as:

...an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground.

LCP Policy 7.16 describes permitted uses in wetlands, which do not include residential development:

Within wetlands, permit only the following uses: (1) nature education and research, (2) hunting, (3) fishing, (4) fish and wildlife management, (5) mosquito abatement through water management and biological controls; however, when determined to be ineffective, allow chemical controls which will not have a significant impact, (6) diking, dredging, and filling only as it serves to maintain existing dikes and an open channel at Pescadero Marsh, where such activity is necessary for the protection of pre-existing dwellings from flooding, or where such activity will enhance or restore the biological productivity of the marsh, (7) diking, dredging, and filling in any other wetland only if such activity serves to restore or enhance the biological productivity of the wetland, (8) dredging manmade reservoirs for agricultural water supply where wetlands may have formed, providing spoil disposal is planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation, and (9) incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

LCP Policy 7.17 describes performance standards in wetlands, in relevant part:

Require that development permitted in wetlands minimize adverse impacts during and after construction...

LCP Policy 7.18 establishes buffer zones for wetlands and states:

Buffer zones shall extend a minimum of 100 feet landward from the outermost line of wetland vegetation. This setback may be reduced to no less than 50 feet only where (1) no alternative development site or design is possible; and (2) adequacy of the alternative setback to protect wetland resources is conclusively demonstrated by a professional biologist to the satisfaction of the County and the State Department of Fish and Game. A larger setback shall be required as necessary to maintain the functional capacity of the wetland ecosystem.

LUP Policy 7.19 describes the permitted uses allowed in wetland buffer zones:

Within buffer zones, permit the following uses only: (1) uses allowed within wetlands (Policy 7.16) and (2) public trails, scenic overlooks, and agricultural uses that produce no impact on the



adjacent wetlands [emphasis added].

LUP Policy 7.51 addresses the removal of undesirable invasive plants:

Encourage the voluntary cooperation of private landowners to remove from their lands the undesirable pampas grass, French, Scotch, and other invasive brooms. Similarly, encourage landowners to remove blue gum seedlings to prevent their spread.

A Biotic Assessment report dated April 2003, prepared for the applicants by Thomas Reid Associates, described the vegetation on the property as being dominated by approximately 14 acres of fallow agricultural fields. This report also describes an approximately four-acre eucalyptus/scrub area as a likely wetland in the northeast portion of the property (shown on page 1 of Exhibit 4). The vegetation in this eucalyptus/scrub area is described as being dominated by silver mountain eucalyptus (which had previously been harvested from this area), but the report states that this area also includes coastal scrub and seasonal marsh vegetation such as Pacific bog rush and Pacific cinquefoil. This report states, “water seeps through this area and into drainage ditches that eventually flow into ponds on an adjacent property to the west.” This report states that portions of this approximately four-acre eucalyptus/scrub area could meet the definition of a LCP and/or USACOE jurisdictional wetland. However, a wetland delineation of LCP wetlands was not performed.

This report also states that the headwaters of a “very small intermittent drainage” extend onto the western portion of the property for approximately 172 feet (shown on Exhibit 11 as “swale wetland”). This drainage, which consists of one of the active drainage easements, drains westward onto an adjacent property where it flows into two ponds located on an adjacent parcel.

The biological assessment identifies dispersal habitat for the California red-legged frog (*Rana aurora draytonii*), a federally listed threatened species and the San Francisco garter snake (*Thamnophis sirtalis tetrataeni*), a state- and federally-listed endangered species as likely being present in the seasonally wet areas on the property, including the active drainage easement area on the western portion of the property and the agricultural drainages within the eucalyptus/scrub area.

In order to approve a coastal development permit through a *de novo* review of the project, the Commission required additional analysis of the impacts of the approved development to environmentally sensitive habitat areas, including any potential impact to wetland habitat or habitat of the San Francisco garter snake or the California red-legged frog, through a more detailed, site-specific biological resources assessment and wetland delineation conducted in accordance with the LCP definition of wetlands. A Wetland Determination Report was prepared for the project on May 27, 2004. This report notes that a portion of the property, approximately five acres, was previously planted as an ornamental eucalyptus orchard. This area has been frequently inundated with irrigation runoff from nearby agricultural fields. The report notes that approximately 1.45 acres of this area qualify as jurisdictional wetlands under the California Coastal Act and LUP Policy 7.14 definition of wetlands based on the presence of wetland vegetation and hydric soils. Additionally, there are three active agricultural ditches on the property that also qualify as wetlands (see Exhibit 11). Two of these are adjacent to the eucalyptus wetland area, and one is located on the western border of the property.



LUP Policy 7.18 requires that development adjacent to wetlands be located outside a minimum 100-foot buffer zone measured from the outermost line of wetland vegetation. As described in Special Condition #1 and shown in Exhibit 10, the revised residence will be relocated several hundred feet southeast of the location approved by the County. This location is at least 300 hundred feet from all wetland areas on the property. Special Condition #1 also requires that the size of the residence be limited to 2,500 square feet within a 10,000 square foot building envelope. The remainder of the parcel that is located outside the 10,000 square foot building envelope, including the wetland area, will be placed under an agricultural conservation easement, which only allows for the continuation of agricultural harvesting/production in the wetland but precludes placement of agricultural structures or residential development in the wetland. Thus, the project, as conditioned, is consistent with LUP Policy 7.18.

Regarding the California red-legged frog and the San Francisco garter snake, the Thomas Reid 2003 report identified two ponds on an adjacent parcel west of the subject property as potential habitat for these species (the closest pond is located approximately 150 feet from the western edge of the property boundary and approximately 540 feet from the proposed building site; the second pond is located approximately 500 feet from the western edge of the property and is approximately 900 feet from the proposed building site). These ponds are on private land and no records were found indicating that the ponds have ever been surveyed for California red-legged frog or San Francisco garter snake. This report also found that seasonally wet areas on the subject parcel, including the intermittent drainage on the western boundary and the agricultural drainages and abandoned eucalyptus orchard may provide dispersal habitat for these species.

A follow-up report to the Wetland Determination Report of 2004 notes that the Commission follows guidance established by the U.S. Fish & Wildlife Service (USFWS) regarding recommended buffer zones from potential habitat of the California red-legged frog and the San Francisco garter snake. This includes both potential breeding habitat and habitat corridors used by the species to travel between ponds. Habitat corridors include areas between water features, such as the eucalyptus wetland area, the active agricultural drainages on the parcel, and the ponds on the adjacent parcel to the west. USFWS recommends a buffer between these types of water features and proposed development to protect potential red-legged frog habitat. As discussed above, Special Condition #1 relocates the residence and associated development several hundred feet southeast (as shown on Exhibit 10) of the location approved by the County. Thus, as conditioned, the proposed development will be located more than 300 feet from the eucalyptus wetland and more than 500 feet from the wetland agricultural drainages on the parcel and the ponds located on the adjacent parcel to the west.

Neither the California red-legged frog nor the San Francisco garter snake were observed on the property during field surveys. The Thomas Reid 2003 report notes, however, that these species could occur in the eucalyptus wetland area long the northern boundary of the property and in the drainage perpendicular to the western property boundary. The potential for these species to occur within the remainder of the parcel is low, however, because of the disturbed nature of the site due to past disking and agricultural activities, which discourage the California red-legged frog and the San Francisco garter snake from moving into an area. To ensure that no impacts to these species take place due to construction activities, Special Condition #5 requires that a pre-construction survey be completed by a



qualified biologist to determine if California red-legged frog or San Francisco garter snake are present in or adjacent to the proposed construction area. Also, this condition, as well as Special Condition #6, require the implementation of appropriate avoidance measures during grading/construction to protect the sensitive wetland habitats on the site. Special Condition #7 provides further protection for sensitive habitats by requiring submission of a post-construction stormwater pollution prevention plan. With these conditions, the revised project is consistent with LUP Policy 7.3.

In conclusion, the revised residential development is located at least 300 feet from wetlands on the site, consistent with the LCP's wetland buffer requirements. The project is conditioned to reduce the house size to 2,500 square feet within a 10,000 square foot building envelope located in an area at least 300 feet from all wetlands on the property. All remaining portions of the parcel outside this 10,000 square foot building envelope will be placed under an agricultural conservation easement, which allows for the continuation of agricultural harvesting/production in the wetland area but precludes agricultural structures or residential development in the wetland area. This approval includes special conditions to protect the California red-legged frog, the San Francisco garter snake, and wetland areas on the parcel during construction. With these conditions, the proposed project is consistent with the policies of the Sensitive Habitats component of the LCP.

3. Water Supply

LUP policy 5.22 (equivalent to Zoning Regulations Section 6355(B)) provides protection for agricultural water supplies and states (in relevant part):

5.22. Before approving any division or conversion of prime agricultural land or other land suitable for agriculture, require that: a. The existing availability of an adequate and potable well water source be demonstrated for all non-agricultural uses according to the following criteria: (1) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with LCP Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel... b. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished...

LUP Policy 5.26(a) allows for development of small water impoundments on agricultural land to provide additional water supplies for farmers, and states:

5.26(a). Encourage farmers, acting individually or as a group, to develop: (1) their own water supplies by utilizing small off-stream reservoirs which draw from winter stream flows or (2) dams on intermittent streams.

Thus, LUP Policy 5.22 & Zoning Regulations Section 6355(B) require that before either prime agricultural land or other land suitable for agriculture can be converted to a non-agricultural use, that the non-agricultural use demonstrate both the existence of an adequate and potable well water source on the parcel, as well as that it will not diminish adequate and sufficient water supplies needed for agricultural production and sensitive habitat.



The applicant proposes to convert an existing agricultural well on the parcel to domestic use. County Environmental Health permitted the well in February 2000 (pers. comm. Steve Hartsell, San Mateo County Dept. of Environmental Health). Although it was approved by the County as an agricultural well, it has never been used to provide water for agriculture use on the property. The County's minimum flow base standard for an adequate residential water supply is 2.5 gallons per minute. The results from a pump test (Exhibit 12, pp. 1-2) performed on this well demonstrate that the well meets this minimum flow base standard for residential use. Also, water analyses performed on water samples from the well meet the Environmental Protection Agency's drinking water standards (Exhibit 12, pg. 3). Additionally, the County's approval included Environmental Health Division special conditions that require the applicant to obtain a certification for the well as a domestic water source prior to issuance of the building permit, and also require the applicant to obtain a permit to operate the well as a domestic source prior to the final inspection of the building permit (see Exhibit 13, conditions #37 & 39). These conditions remain in effect pursuant to Special Condition #8 of this approval. Thus, the proposed project is consistent with the first of the two requirements of San Mateo County LUP Policy 5.22(a) and Zoning Regulations Section Zoning Regulation 6355(B) regarding the existence of an adequate and potable well water source on the parcel.

Agricultural water for the parcel will continue to be provided from Lake Lucerne, which is a manmade reservoir located less than one mile from the subject parcel. The Lake Lucerne Water Company maintains dams and a pump at the lake. Lake Lucerne has adequately provided water for agriculture in this area of San Mateo County for many years, except during a protracted drought in the 1970s when the Lake virtually dried up. During that drought period, there were major cutbacks in agricultural uses in the area until the drought ended and water was again available for agricultural use (pers. comm. Jack Olsen, Executive Director San Mateo County Farm Bureau). The Peninsula Open Space Trust (POST) is the majority shareholder in Lake Lucerne. Staff at POST has stated that in recent years there has been more than ample water from Lake Lucerne to serve the agricultural parcels that have shares in the Lake Lucerne Mutual Water Company (pers. comm. Walter Moore, POST). Currently, however, there are no additional shares available for purchase in the Lake Lucerne system.

Water from Lake Lucerne is pumped to various agricultural operations in the area, according to existing water rights. The subject parcel's water supply is provided by 14 shares in the Lake Lucerne system. In a normal year of rainfall, these shares produce 14 acre-feet of water (1 share equals 1 acre-foot of water). In general, for flood or sprinkler irrigation, 2.5 acre-feet of water per year is required per acre of cultivation; for drip irrigation, approximately 1.5 acre-feet of water per year is required per acre of cultivation. Thus, to adequately irrigate approximately 16 acres of this parcel would require between 24 and 40 acre feet of water per year depending on whether sprinkler or drip irrigation is utilized, or 10 to 26 acre feet per year more than the water rights allocated to the project site from the Lake Lucerne system. LUP Policy 5.26(a) encourages the development of alternative water supplies, such as agricultural ponds, to support farming operations on PAD-zoned land. In the absence of an additional water supply to support continued agricultural use of the property, the proposed conversion of the existing agricultural well to a domestic well is inconsistent with the requirement of LUP Policy 5.22 & Zoning Regulations Section 6355(B) that adequate and sufficient water supplies needed for agricultural production are not diminished.



To permit the proposed conversion of the existing agricultural well to a domestic well while ensuring that agricultural use on the parcel is served by an adequate water supply, additional agricultural water supply must be developed. Therefore, Special Condition #2 requires the applicants to provide an additional water supply as needed to ensure an adequate water supply is available for agricultural use of the property. The capacity and manner in which this additional water supply shall be provided will be determined by the agricultural conservation easement grantee in consultation with the Executive Director, and may include but is not limited to the construction of an agricultural pond (see Exhibit 14), installation of a well, or acquisition of additional water rights from the local irrigation district. As conditioned, the proposed project is consistent with LUP Policy 5.22(b) regarding the requirement that water supplies for agricultural production not be diminished.

Finally, the eucalyptus wetland located on the applicants' parcel, as well as two ponds located on an adjacent property, receive their water primarily from surface drainage and agricultural drainages located on the parcel and adjacent parcels, not from groundwater. Thus the conversion of the agricultural well to a domestic use will not diminish these sensitive habitat areas. Thus, the proposed project is consistent with LUP Policy 5.22(b) and Zoning Regulations Section 6355(B) regarding protection of agricultural water supplies and sensitive habitats.

4. Visual Resources

LUP policy 8.5(a) requires that new development be sited to minimize visual impacts from State and County Scenic Roads, and states:

8.5a. Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.

Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches...

This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation on the parcel. In such cases, agricultural development shall use appropriate building materials, colors, landscaping and screening to eliminate or minimize the visual impact of the development.

LUP Policy 8.16 requires the use of landscaping to mitigate the visual impact of development, and states:

a. Use plant materials to integrate the manmade and natural environments and to soften the visual impact of new development. b. Protect existing desirable vegetation. Encourage, where feasible, that new planting be common to the area.



LUP Policies 8.18 and 8.19 provide for development design requirements and state:

a. Require that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping.

The colors of exterior materials shall harmonize with the predominant earth and vegetative colors of the site. Materials and colors shall absorb light and minimize reflection. Exterior lighting shall be limited to the minimum necessary for safety. All lighting, exterior and interior, must be placed, designed and shielded so as to confine direct rays to the parcel where the lighting is located.

Except for the requirement to minimize reflection, agricultural development shall be exempt from this provision. Greenhouse development shall be designed to minimize visual obtrusiveness and avoid detracting from the natural characteristics of the site.

b. Require screening to minimize the visibility of development from scenic roads and other public viewpoints. Screening shall be by vegetation or other materials which are native to the area or blend with the natural environment and character of the site. c. Require that all non-agricultural development minimize noise, light, dust, odors and other interference with persons and property off the development site.

c. Require that all non-agricultural development minimize noise, light, dust, odors and other interference with persons and property off the development site.

8.19 Colors and Materials

8.19 a. Employ colors and materials in new development which blend, rather than contrast, with the surrounding physical conditions of the site. b. Prohibit highly reflective surfaces and colors except those of solar energy devices.

The project site is located approximately ½-mile inland from the Cabrillo Highway State Scenic Corridor. Aerial photographs show a residence surrounded by evergreen trees and greenhouses to the immediate south of the subject property (see Exhibit 4). Further to the south is an area with approximately eight residences visible from these aerial photographs. Approximately one-half mile to the south are predominantly undeveloped lands surrounding Lake Lucerne and Arroyo de los Frijoles.

The County-approved and currently proposed project consists of a two-story residence and associated structural development totaling 6,785 square feet, as well as a pool, patios, driveway, and parking area. The location of the County-approved and currently proposed residence was several hundred feet from Bean Hollow Road. The County noted that the development would be briefly visible from several points along Cabrillo Highway.

The visual resource policies of the certified LCP require that the house be placed in the least visible



location that best preserves public views consistent with all other applicable LCP Policies. As discussed in the Agricultural Finding above and required in Special Condition #1, however, the Commission is requiring that the residential structure be limited to 2,500 square feet in size, within a 10,000 square foot building envelope. Additionally, Special Condition #1 requires the relocation of the residence to a location several hundred feet southeast of the County-approved location (Exhibit 10), in an area much closer to Bean Hollow Road (which is *not* a County Scenic Road). The required reduction in development size provides consistency with the LCP's requirement to reduce encroachment on agricultural land and to not diminish the ability to keep all prime agricultural land in production. The requirement to relocate the residence as close to Bean Hollow Road as possible, without encroaching on the existing non-active agricultural ditch easements, further reduces the project's encroachment on agricultural land. Although the development will be briefly visible from points along Cabrillo Highway, the new location will provide the least impacts to the prime agricultural land resources on the parcel, consistent with the agricultural policies of the certified LCP.

The Commission finds that the location necessitated by application of the agricultural policies of the LCP to the proposed project is also consistent with the provisions of LCP 8.5 to locate new development in the least visible location that best preserves public views consistent with all other LCP policies. The reduced footprint of the house and the relocation of the development closer to Bean Hollow Road, a non-Scenic Country Road, coupled with the approximately ½-mile distance from the Cabrillo Highway Scenic Corridor, will minimize the visual impact of the development, consistent with LUP Policy 8.5(a).

LUP Policy 8.16 requires the use of landscaping to mitigate the visual impact of development. The residence will be visible briefly from Cabrillo Highway. Special Condition #1 requires submission of a landscaping plan to provide a natural frame of vegetation to the new structure and to ensure that the house blends in with the surrounding environment. Additionally, LUP Policies 8.18 and 8.19 provide for development design and color requirements to ensure that the development will blend with and be subordinate to the surrounding environment. Special Condition #1 also requires submission of the proposed colors and materials to be used for external surfaces to ensure that the development blends in well with the surrounding rural environment. As conditioned, the project is consistent with the Visual Resource Policies of the San Mateo County LCP.

5. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding must be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment.

The environmental review of the project conducted by Commission staff involved the evaluation of potential impacts to relevant coastal resource issues, including agricultural resources, water supply, visual resources, and environmentally sensitive wetland habitats. This analysis is reflected in the



findings that are incorporated into this CEQA finding as if set forth in full. This staff report responds to all public comments that have been received as of the date of this staff report. Mitigation measures are incorporated as conditions of this approval. Accordingly, as so conditioned, the Commission finds that the proposed project is consistent with CEQA, as there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment.



V. Appendix A: Substantive File Documents

EMC Planning Group, Inc. June 14, 2005. Potential Impact of Development on Visual Resources, Bean Hollow Road Single Family Residence, Pescadero, California.

EMC Planning Group, Inc. June 14, 2005. An Economic Analysis of a Farming Enterprise on a 17.98-acre site near Pescadero, San Mateo County.

David B. Kelley. October 9, 2004. Assessment of Farmed Wetlands – Polacek Family Residence Site, 900 Bean Hollow Road, Pescadero, San Mateo County, California.

San Mateo County Agricultural Industry Profile & Strategic Farmland Maps – Final Report. July 30, 2004.

David B. Kelley. June 2004. Soils of Polacek Property – Site-Specific Reconnaissance Survey, Bean Hollow Road, Pescadero, San Mateo County, California.

EMC Planning Group, Inc. May 27, 2004. Wetland Determination Report – Polacek Single Family Residence.

California Coastal Commission. March 19, 2004. Appeal Staff Report – Substantial Issue Determination.

California Coastal Commission. February 6, 2004. Notification of Appeal Period for Application No. 2-SMC-02-046 (Local Permit No. PLN2002-01999).

California Coastal Records Project. CaliforniaCoastline.org. Images 6269-6284, taken on September 20, 2002. As shown on website on February 23-25, 2004.

Committee for Green Foothills, Lennie Roberts. December 2, 2002 letter to Gabrielle Rowan, San Mateo County Planning Division.

San Mateo County Department of Agricultural/Weights & Measures. San Mateo County Agricultural Reports 2001, 2002, & 2003.

San Mateo County. 1994. Zoning Regulations.

San Mateo County. 1998. Local Coastal Program Policies.

San Mateo County. November 2, 2000. Planning and Building Division Staff Report to the Zoning Officer on Item #2/Costella/Moceo/Polacek, Consideration of a Conditional Certificate of Compliance and a Coastal Development Permit to Legalize a 17.98-acre parcel.

San Mateo County. September 10, 2003. Planning and Building Division Staff Report to the Planning Commission on Item #9/Polacek. Includes Attachments such as Initial Study and Negative Declaration, Biologist Report by Thomas Reid Associates, Prime Soils Map, Photo Simulations.

San Mateo County Planning and Building Division. December 8, 2003. Report to the Agricultural Advisory Committee from Gabrielle Rowan, Project Planner. County File No. PLN2002-0199 (Polacek), including Attachment C, Agricultural Land Management Plan for Parcel & 086-191-120.



San Mateo County Planning and Building Division. January 16, 2004. Notice of Approval by the Planning Commission of County File No. PLN2002-0199 (Polacek).

San Mateo County Planning and Building Division. February 3, 2004. Notice of Final Local Decision for County File No. PLN2002-0199 (Polacek).

US Department of Agriculture. 1961. Soil Survey, San Mateo Area, California. Soil Conservation Service, Series 1954, No. 13, Issued May 1961.



CALIFORNIA COASTAL COMMISSION

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Th13a



Prepared May 10, 2005 (for May 12, 2005 hearing)

To: Coastal Commissioners and Interested Persons

From: Charles Lester, Deputy Director
Chris Kern, District Manager
Susan Craig, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for Item Th13a
Appeal Number A-2-SMC-04-002 (Polacek SFD)**

The purpose of this staff report addendum is to: 1) revise special condition #1 to provide more clarity regarding the allowable location of the 10,000 square foot building envelope with respect to wetland setbacks and inactive ditch easements; 2) amend special condition #2B to provide more definition regarding the requirement for maintaining the property in active agricultural use; 3) provide more clarity regarding special condition #3 (right-to-farm condition); 4) provide further evaluation of the project's consistency with LUP Policy 5.8(a); 5) add a finding regarding the "Economic Analysis" submitted by the applicants for the proposed project, and; 6) provide additional analysis of the impacts of high-value residential development on agricultural land.

Staff continues to recommend approval of this project as conditioned.

1. Amend Special Condition #1A as follows:

1A. Residential Development Envelope. All residential development (i.e., the residence, all impermeable pathways, turnarounds, courtyards, garages, swimming pools, retaining walls, etc.), except the approved driveway, shall be confined within an area of no greater than 10,000 square feet. The residential development envelope shall be sited within the "potential building area" depicted as close as possible to Bean Hollow Road and the "Inactive Ditch Easement" and within 50 feet of the "Farmed Wetland" as generally depicted on Exhibits #10 and #11.

2. Amend the following paragraphs from the "Wetlands" section of the staff report, as follows:

LUP Policy 7.18 requires that development adjacent to wetlands be located outside a minimum 100-foot buffer zone measured from the outermost line of wetland vegetation. As described in Special Condition #1 and shown in Exhibit 10, the revised residence will be relocated several hundred feet southeast of the location approved by the County. This location is at least 300 hundred feet from all wetland areas the eucalyptus wetland and the agricultural ditch wetlands on the property. This location, however, is near an area determined by the applicants' soil specialist to consist of farmed wetlands (shown in the general area of data points C and D on Exhibit 11). The soil specialist determined this to be an area where a full



California Coastal Commission

May 2005 Meeting at Stanford in Palo Alto

Staff: S.Craig Approved by:

A-2-SMC-04-002 Polacek SFD addendum 5.10.2005

complement of wetland characteristics might be found if not disturbed by the farming process. LUP Policy 7.18 allows for the reduction of a wetland setback to 50 feet if no alternative development site is possible and when adequate to protect wetland resources. Alternative building sites on the parcel would provide greater encroachment of development onto valuable agricultural land. Since the wetland area in question is entirely within cultivated farmland that would continue to be farmed pursuant to the requirements of this permit and supports no wetland plant or animal species, the minimum 50-foot buffer allowed under the LCP is adequate to protect wetland resources. Special Condition #1, also requires that the size of the residence be limited to 2,500 square feet within a 10,000 square foot building envelope located as close as possible to Bean Hollow Road and the "Inactive Ditch Easement" and within 50 feet of the "Farmed Wetland," as generally depicted on Exhibits #10 and #11. The remainder of the parcel that is located outside the 10,000 square foot building envelope, including the wetland area, will be placed under an agricultural conservation easement, which only allows for the continuation of agricultural harvesting/production in the wetland but precludes placement of agricultural structures or residential development in the wetland. Thus, the project, as conditioned, is consistent with LUP Policy 7.18.

...

In conclusion, the revised residential development is located at least 300 feet from the eucalyptus wetland and the agricultural ditch wetlands on the site, as well as 50 feet from the farmed wetland, consistent with the LCP's wetland buffer requirements. The project is conditioned to reduce the house size to 2,500 square feet within a 10,000 square foot building envelope located in an area at least 300 feet from all most wetlands on the property, and 50 feet from the farmed wetland. All remaining portions of the parcel outside this 10,000 square foot building envelope will be placed under an agricultural conservation easement, which allows for the continuation of agricultural harvesting/production in the wetland area but precludes agricultural structures or residential development in the wetland area. This approval includes special conditions to protect the California red-legged frog, the San Francisco garter snake, and wetland areas on the parcel during construction. With these conditions, the proposed project is consistent with the policies of the Sensitive Habitats component of the LCP.

3. Amend the following paragraph on page 34, as follows:

Typical conforming lots in the residentially zoned areas of the San Mateo County coast range from 5,000 square feet to 10,000 square feet. A 5,000-square-foot lot readily accommodates a 2,500-square-foot single-family residence and all appurtenant development such as landscaping, swimming pools, accessory structures, second residential units, guest units, etc. As such, limiting the residential component of the proposed development to a 5,000-square-foot envelope consistent with the minimum lot size allowable in the R-1 district would allow a reasonable residential development. However, the Commission finds that given the total size of the development site relative to the development envelope, a development envelope in the upper end of the range of lots in the residential zoning districts (10,000 square feet), would still achieve the LCP requirement to minimize the encroachment of development on



agricultural lands. Therefore, Special Condition #1 requires the proposed residential development to be confined to a 10,000-square-foot development envelope. Pursuant to this condition, the 10,000-square-foot limit would not include the driveway. To further minimize encroachment on agricultural land, the 10,000 square foot development envelope must be located as close to Bean Hollow Road as possible, while avoiding structural encroachment upon existing inactive ditch easements and maintaining a 50-foot setback from the farmed wetland shown on Exhibit 11 (see the “Wetland” section of the report for further discussion of the “farmed wetland”). Special Condition #1 further limits the 10,000 square foot development envelope to the “potential building area” on the parcel shown in Exhibit 10, consistent with the above requirements.

4. Amend Special Condition #2B as follows:

2B. All areas of the Property, except for the 10,000 square foot development envelope specified in Special Condition #1, shall at all times be maintained in active agricultural use. Agricultural use shall be defined as the use of land for the purpose of producing an agricultural commodity for commercial purposes. The Permittees may satisfy this requirement either by engaging in good faith in agriculture at a commercial scale and/or by leasing the area of the Property outside of the approved 10,000-square-foot development envelope, in whole or in part, to a farm operator for commercial agricultural use. The terms of any lease agreement for purposes of this condition shall be based on the current market rate for comparable agricultural land in the region and shall reflect a good faith effort on the part of the Permittees to maintain continued agricultural use of the property. The Permittees shall be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property, ~~and shall acquire or develop any additional water supply determined by the Executive Director, Grantee of the Agricultural Conservation Easement, or lessee to be necessary to fulfill this requirement.~~

5. Amend Special Condition #3 as follows:

3. Right to Farm. By acceptance of this permit, the Permittees acknowledge and agree: (a) that the permitted residential development is located on and adjacent to land used for agricultural purposes; (b) users of the property may be subject to inconvenience, discomfort or adverse effects arising from adjacent agricultural operations including, but not limited to, dust, smoke, noise, odors, fumes, grazing, insects, application of chemical herbicides, insecticides, and fertilizers, and operation of machinery; (c) users of the property accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses; (d) to assume the risks to the Permittees and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural lands against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any issues that are or in any way related to the property that is the subject of this permit. ~~normal and necessary agricultural land use and its impact to users of the property.~~



6. Amend the following paragraphs on pp. 26-27, as follows:

Taken together, the LCP's agricultural policies and zoning regulations require minimizing encroachment of development on agricultural land, as well clustering development on an agricultural site. Additional requirements include ensuring that the productivity of adjacent agricultural land will not be diminished, that the permitted use will not impair agricultural viability via increased land assessment costs, and that the maximum amount of agricultural land be kept in production. In this case, the proposed 6,785 square foot residential structures and associated pool, patio, and landscaping occupy approximately 2 acres of prime agricultural land on the parcel (see Exhibit 2, pg. 1). The proposed large-scale residential development does not constitute a farmhouse (the applicants are not farmers) and thus is not incidental to agricultural uses on the property. Furthermore, the proposed development does not minimize encroachment of agricultural land on the parcel, inconsistent Zoning Regulations Section 6355. Additionally, the project is inconsistent with LUP Policy 1.8(a) and Zoning Regulations Section 6350 in that, due to its size and sprawling nature, the proposed project diminishes the ability to keep the maximum amount of prime agricultural land in production. ~~Additionally, as discussed below, large-scale residential development on agricultural parcels has the effect of raising surrounding land values such that it becomes prohibitively expensive to continue farming on surrounding parcels. Thus, the project is additionally inconsistent with LUP Policy 5.8(a)(3), which requires that the productivity of adjacent agricultural land will not be diminished by conditional development, and with LUP Policy 5.8(a)(4), which requires that permitted uses shall not impair agricultural viability by increased assessment costs (also, see below).~~ Furthermore, LUP Policy 5.8(a) establishes four criteria that must be met before prime agricultural land can be developed with a conditional use (i.e., converted from agricultural use). Failure to meet any one of these criteria requires that the proposed conversion be prohibited. LUP Policy 5.8(a)(1) prohibits the conversion of prime agricultural land unless no alternative site exists for the use. As discussed above, the parcel consists entirely of prime agricultural land. Thus, there is no alternative site for the proposed use that does not convert prime agricultural land on the parcel. Therefore, the criterion of LUP Policy 5.8(a)(1) is met.

LUP Policy 5.8(a)(2) requires that "clearly defined buffer areas are provided between agricultural and non-agricultural uses." For an evaluation of the project's consistency with this policy, please see the "Agricultural Buffer" section of the staff report.

LUP Policy 5.8(a)(3) requires that the productivity of adjacent agricultural land will not be diminished by conditional development. LUP Policy 5.8(a)(4) requires that permitted uses shall not impair agricultural viability by increased assessment costs. As discussed above, the San Mateo County Agricultural Industry Profile and the Strong Associates 2003 Marin County Agricultural Economic Analysis found that ranchette and urban development of farmland is one of the chief factors in driving up rural land costs, and that as land becomes too expensive for farmers to rent, purchase, or maintain due in part to increased holding costs, agricultural use of the land is diminished. In the case of the Polacek property, this property had an assessed pre-Proposition 13 value of \$26,835 at the beginning of 1998 . Ownership of the parcel was then transferred from Lina (Campanotti) Bandini to Frank Costella/Ralph Moceo. There then was a transfer of partial interest from Ralph Moceo to Frank Costella (transfers of property between family members do not trigger reassessment of the property; partial



transfers only trigger reassessment of the portion of the property transferred). The final assessed value for the property in 1998 was \$155,500. Frank Costella sold the parcel to the Polacek's on January 8, 2001 for \$750,000. This sale price was based on an appraisal report for the property in 2000, which appraised the property based on its "highest and best use", i.e. residential use. According to Cathey LaVeck at the San Mateo County Assessor's Office, all PAD-zoned property that is for sale is appraised at the market rate for residential use unless it is placed under a Williamson Act contract or is subject to a conservation easement, which would result in the appraised value being much lower. The property's assessed value was \$765,000 in 2002. The current assessed land value of this undeveloped parcel is \$794,868. When the property is developed with a house, the improvement value will be based on the fair market value of the house. Fair market value is based on a number of factors, including size of the house, quality of the materials used to construct the house, and the types of amenities present, such as a pool. The improvement value will be added to the land value to equal the total taxable assessed value of the property. Given the size of the proposed residence and associated development, which totals 6,785 square feet, as well as the amenities associated with the proposed house, including a pool, the total assessed value of the property would be approximately \$1,800,000 to \$2,300,000. This is based on an estimated assessed value of \$1,000,000 to \$1,500,000 for the residential improvements and an approximate \$800,000 land value for the parcel. Thus, the proposed residential development will increase the assessed value of the property by two to three times its current value. As found in the Strong Associates study, such high-value residential development impacts the viability of agricultural by contributing to increased costs/assessments of agricultural land in the region. Thus the project, as proposed, is inconsistent with LUP Policies 5.8(a)(3) and (4) because it would diminish the productivity of adjacent agricultural land and would impair the agricultural viability of farmland in the County's coastal zone through increased assessment costs.

7. Add the following Section immediately after the amended finding shown in #6 above, as follows:

Economic Analysis

The applicants' representative performed "An Economic Analysis of a Farming Enterprise on a 17.98-acre site near Pescadero, San Mateo County" (see Attachment 1). The Economic Analysis cites Coastal Act Section 30108, which defines "feasible," and states:

30108. *"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.*

The Economic Analysis also cites Coastal Act Sections 30241.5(1)(2), which indicates that an agricultural economic feasibility analysis should have the following elements, at a minimum, and states:

30241.5. *(1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program. (2) An analysis of the operational*



expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

The Economic Analysis discusses a number of physical constraints of the parcel including soil constraints, wind exposure, water availability, distance from other agricultural centers, etc. As discussed above, however, the soils on the property consist of prime agricultural soils. Also, many of the mentioned constraints are present on other agricultural properties in the area, which remain in active agricultural production. Regarding water availability, the project is conditioned to require the permittees to develop an additional water supply on the parcel (e.g., an agricultural pond) if the water available from Lake Lucerne is not adequate to sustain the agricultural viability of the property (see Special Condition #2B, and the “Water Supply” finding below). Additionally, the applicants’ Agricultural Land Management Plan (Exhibit 3) notes that the parcel has been farmed in crops since 1900 or earlier and that the parcel has produced a variety of crops through the years, including artichokes, fava beans, Brussels sprouts, leeks, hay, straw flowers, and ornamental eucalyptus. Furthermore, the parcel was actively planted with Brussels sprouts through the year 2000. Thus, the parcel has actively produced agricultural products for over 100 years in spite of the constraints listed above. Since the applicants purchased the property in early 2001, however, the parcel has not been actively or continuously farmed.

The Economic Analysis notes that the applicants, while waiting for permit approval of their project, have made the parcel available to local neighborhood farmers to grow crops on the parcel, without charging a lease fee, and that even with this free opportunity, there has been minimal interest in farming on the property. No evidence, however, is provided to support this statement. Additionally, the Economic Analysis states that the property is small and fragmented into smaller non-contiguous areas by potentially protected wetlands and agricultural ditches, and that the fragmentation of this agricultural land creates inefficiencies in agricultural operations. The eucalyptus wetland on the property, however, has previously been farmed and would be available for farming in the future (agriculture is not considered “development” under the LCP and therefore is not subject to the LCP prohibition of development within wetlands). Also, the agricultural ditches on the property, which provide drainage of excess water into ponds on an adjacent parcel, have existed on the property for years, during which time the parcel was actively farmed.

Two crops, Brussels sprouts and artichokes, were considered in the Economic Analysis. These crops were chosen because they have been consistently grown in the area over the years and recent data on these crops are readily available. The Economic Analysis estimated the costs and expected returns of producing these crops on the farmable portions (approximately 14.35 acres) of the parcel. As discussed above, however, the eucalyptus wetland area is farmable. Also, as conditioned, the residential development is limited to a 10,000 square foot building envelope (see discussion below), as opposed to the approximately two-acre building envelope proposed by the applicants. Thus, the farmable portions of the property (excluding the agricultural ditches and 10,000 square foot building envelope) equal approximately 17 acres. The Economic Analysis, however, uses a fixed per-acre cost for all farm cash expenses and direct farm operating expenses. Thus, even when the estimated costs and revenues are



calculated for a 17-acre farmable parcel, the net result does not change from that calculated for a 14.35 farmable parcel. In general, with more acres farmed you would expect the farm costs and expenses to be reduced, leading to a larger economic return. In this case, however, the difference between the two farmable estimates (14.35 acres versus 17 acres) is small and the net results probably would be very similar. In any event, the Economic Analysis shows a negative return on investment for both artichokes and Brussels sprouts. The Economic Analysis concludes that the parcel size and other parcel constraints discussed above do not provide for a viable farm.

Due to changes in the market over the last several years (i.e., competition from other regions), artichokes are no longer commonly grown on the San Mateo coast. As such, artichokes are not an appropriate crop to base an analysis of agricultural viability for the subject parcel. Instead, the analysis should have considered crops that are commonly grown today on the San Mateo coast, alternative crops, such as those proposed in the applicants' Agricultural Land Management Plan (see Exhibit 8, page 3), or organically grown crops, which are often grown on smaller parcels. For example, nursery and greenhouse production represent approximately 90 percent of total sales of agricultural products in the County and would be less affected by constraints raised in the applicant's analysis such as wind. Mushrooms produced on only 17 acres in the County in 2002, an area similar in size to the applicant's property, had a production value of \$23 million.¹ Yet, the applicant's analysis does not evaluate the feasibility of using the property for any of these higher valued and/or more common agricultural products in San Mateo County. Additionally, other than stating that there is no interest in farming this parcel, the Economic Analysis does not evaluate the economics of this parcel if it were farmed as part of a larger operation, which was how the property was farmed prior to purchase of the property by the applicants. For the above reasons, the submitted Economic Analysis is of limited value in determining the economic viability of continued or renewed agricultural use of the project site.

8. Replace the Section entitled "Rural House Size Limit" (in its entirety) on pages 30-34 with the following:

AFT 2004 San Mateo County Agricultural Industry Study

The American Farmland Trust (AFT) conducted a study in 2004 of San Mateo County agriculture under contract with the Peninsula Open Space Trust (POST), which reviewed among other things the economic and development pressures affecting agriculture in the County.² This study shows that over the past 25 years the county's land in farms decreased 45 percent from 75,110 acres to 41,530 acres. Although the AFT Study does not differentiate between agricultural lands lost inside and outside of the coastal zone, much of the agricultural lands in San Mateo County are in the coastal zone and, according to POST, AFT's findings are representative of the trends for San Mateo coastal agricultural lands.³ These data suggest that implementation of the Coastal Act and LCP agricultural protection policies has not necessarily been effective in keeping the maximum amount of agricultural land in production.

¹ San Mateo County Agricultural Industry Profile & Strategic Farmland Maps—Final Report, July 30, 2004, American Farmland Trust.

² San Mateo County Agricultural Industry Profile & Strategic Farmland Maps – Final Report. July 30, 2004. American Farmland Trust.

³ Pers. Comm. Paul Ringgold, POST, May 9, 2005.



The AFT Study also shows that the rate of decline in farmland acreage is increasing with a 28 percent reduction in both land in farms and average farm size during the period between 1992 and 2002. AFT attributes the loss of farmland in part to increased land costs, and states:

“Not surprisingly, as land in farms declined, land values increased dramatically.”

In addition to analyzing data from the U.S. Census of Agriculture and San Mateo County Agricultural Commission Crop Reports, AFT interviewed local farmers to gain insight about how farmers perceive these issues. According to AFT, the main challenges facing San Mateo County agriculture include: “(1) increased input costs; (2) shrinking markets; (3) stiff environmental regulations; and (4) decreasing land available for agriculture.”

Other findings of the AFT study include:

“The farmer’s perception that land is too expensive to rent or purchase was born out by the data. Between 1978 and 2002, the estimated average value of land and buildings rose 290 percent to just over \$1.5 million.”

“Some farmers pointed to ranchette and urban development to explain the loss of farms and farmland.”

“The main challenges the farmers identified were environmental and economic. Farmers also pointed to the problems related to the shrinking agricultural land base—especially the fact that land is too expensive to rent. While some farmers blame public and private conservation organizations for reducing the amount of rental land, the problem is more likely driven by new development than open space protection.”

Thus, according to the AFT Study, substantial San Mateo County farmland has been lost notwithstanding the Coastal Act and LCP agricultural protection policies that require the protection of the maximum amount of agricultural land in production. The study also shows that increased land cost is one of the main factors contributing to this loss of farmland and that increased land costs are due primarily to new development. However, although the AFT Study cites farmers’ concerns regarding ranchette and urban development and contends that new development is likely the chief factor driving high land costs, it does not specifically examine how high-value residential developments, such as the proposed project, affect land costs and related viability of agriculture.

Strong Associates 2003 Marin County Agricultural Economics Analysis

The impacts of high value residential development on the viability of agriculture and the ability to keep agricultural lands in production is specifically addressed in a 2003 study prepared for the Marin County Community Development Agency (Strong Associates Study).⁴ This study “analyzes the economic issues facing agriculture in Marin County with the primary focus on the impact of estate development on agricultural lands.” The study reviews an earlier study of Marin’s agricultural economy from 1973,

⁴ Marin County Agricultural Economic Analysis, Final Report. Strong Associates. November 2003.



analyzes current data regarding Marin agricultural production, costs, land values, etc., and evaluates five case studies identified by the Marin Planning Department where new homes are either proposed or have been recently constructed on agricultural parcels to determine to what extent the County's efforts to preserve agricultural lands over the past 30 years have been successful and whether prior strategies for farmland protection remain effective.

There is little doubt that the same basic market forces and other factors analyzed in the Strong Associates Study of high value residential development in Marin County are relevant to understanding agricultural trends in San Mateo County. The study's author states that residential estate development impacts agricultural viability in San Mateo County in the same way as it does in Marin County and that there is no reason not to apply the study's findings and recommendations to San Mateo County.⁵

The key findings and recommendations of the Strong Associates Study include:

"The major problem in 1973 was that agricultural lands were subject to speculation for subdivision into suburban housing. Today, the major issue is high value estate development. The concern, however, is similar—that land costs can be driven up beyond agriculture's ability to pay, thus discouraging maintaining agricultural use."

"What was not anticipated 30 years ago was that some landowners or buyers would use large agriculturally-zoned parcels essentially for estate development. High-value residential development keeps the large acreage intact, but it undermines the economics and the "will" to maintain agricultural use."

"Today, the speculation is not so much for subdivision into suburban housing but is for high value estate development. The concerns are the same, however:

- *Land costs can be driven up beyond agriculture's ability to pay for the taxes, insurance and maintenance costs associated with the land;*
- *New estate owners may not be interested in making long-term investments in agricultural improvements, or even accommodating agricultural use; and*
- *There can be land-use conflicts between non-agricultural residents and commercial agricultural operations."*

"Keeping land values (and thus costs) in balance with agricultural income is critical to maintaining long-term agricultural viability. Fortunately, this problem is being addressed at an early stage. Just as the County was able, through zoning and other policies and support efforts, to reduce land speculation for subdivision of agricultural lands, it is timely to develop approaches that will again protect and stabilize agricultural use from "gentrification" into non-productive estates."

⁵ Pers. Comm. David Strong, May 6, 2005.



County policy-makers should explore approaches to maintaining an “agriculturally friendly” ratio of land costs to lease income. Such approaches may include:

- 1. Define a reasonable ratio of lease income to land related costs, including placing a ceiling on the value of non-agricultural improvements. The economic analysis above could be applied on an area-specific basis to determine income and cost factors in order to limit the impact of proposed new development, or an overall ceiling could be placed on the size of farm residences. The acceptable level is a policy decision that balances the long-term economic viability of agricultural use with the expectation of landowners to build a livable residence on a ranch.*
- 2. Other measures to enhance long-term agricultural viability could include installing agricultural improvements, such as water development... The landowner could also finance annual agriculture-related costs such as weed control, access roads, and fence maintenance.”*

Rural House Size Limit

As shown in the Strong Associates study, the speculative value of agricultural land for residential development is driven in large part by the demand for new high-value residential development. The homes associated with this type of development are typically much larger than most existing farm dwellings. As shown below, most of the recently constructed homes in the PAD zone are, like the proposed development, several times larger than the typical house size in the PAD zoning district. As demonstrated by the Strong Associates Study, development of these high value homes contributes to the speculation for the use of other agricultural parcels on the San Mateo coast for similarly large homes, resulting in significant adverse cumulative/indirect impacts on the continued economic viability of agriculture throughout the County.

As shown above, the Commission finds that the proposed development would result in significant adverse cumulative impacts on the viability of agriculture on the San Mateo County coast by contributing to the increased cost of agricultural land in the region. As such, the proposed development would diminish the ability to keep all agricultural land in agricultural production in conflict with LUP Policy 1.8(a) and Zoning Code Sections 6350 and 6355 and would impair agricultural viability through increased assessment costs inconsistent with LUP Policy 5.8(a)(4). The Commission further finds that reducing the size of the proposed residence would reduce the effects of the development on agricultural land cost, thus minimizing the adverse impacts of the proposed development on agricultural viability.

The Strong Associates Study found that the effect of estate development on agricultural land values directly corresponds with house size, with the largest, most expensive homes having the greatest impact on land cost. Smaller homes have less impact on land costs and therefore on the viability of the land for agricultural use (i.e. potentially more feasible to farm). As such, the Commission finds that it is necessary to reduce the size of the proposed residence in order to avoid significant adverse cumulative impacts on agricultural viability in conflict with LUP Policies 1.8(a) and 5.8, and Zoning Code Sections 6350 and 6355. Conversely, the Commission finds that not restricting the size of the proposed residence would serve to support the current market incentives to construct larger expensive homes on farmland and lead to further loss of agricultural production in conflict with the requirements of the LCP. The



Commission finds that it is timely to take such action now while the trend to develop farmlands for large estates is still relatively new and most of the agricultural parcels in the County remain either undeveloped or developed with modest-sized homes typical of farm dwellings.

In 2002, in response to public concern about an increase in large estate developments in the rural areas of the County's coast, the San Mateo County Board of Supervisors directed County staff to develop a proposal for limiting the height and floor area of new single-family residences in the rural portion of the County's coastal zone. During their evaluation, County staff found that the size of new houses in the rural zoning districts increased from an average of 2,484 square feet in 1993 to 4,926 square feet in 1998. In several reports to the County Agricultural Advisory Board and Planning Commission in 2002, County staff described the issue as follows:

The principle intent of the PAD zoning district is preserve and foster existing and potential agricultural operations and minimize conflicts between existing agricultural and non-agricultural land uses. The PAD allows some non-agricultural uses, such as single-family residences, under strict conditions through the issuance of use permits.

The PAD does not foster or encourage the development of large, single-family residences for non-farm working families. Although, as documented, three have been proposed in the past year and several have been built since the PAD was established in 1980.

County staff also determined that:

General Plan policies and the Zoning Regulations provide strong justification to limit the size and height of single-family residences in order to minimize negative environmental effects on the preservation of agriculture and open space. They also provide strong justification to regulate the design of these residences.

The General Plan's Local Coastal Program policies in particular require that all development in the rural areas blend and harmonize with the natural environment so that it is subordinate and unobtrusive. It is debatable as to whether most of the large single-family residences that have been approved in the past ten years are as subordinate to the natural environment or as unobtrusive as possible.⁶

Commission staff provided comments to the County in response to the proposed rural house size limit suggesting that in order to determine a size limit that would meet the requirements of the LCP, the County should take into consideration the scale and character of existing residences in this area. The County did not complete this evaluation and never adopted a rural house size limit. Thus, although the County has expressed concern about the trend of large single-family home construction on agricultural lands and the negative effects of such development on continued agricultural use of such lands, it has not yet taken action to address this issue and a rural house size limit has not been established.

⁶ County of San Mateo, Environmental Services Agency Planning and Building Division, memo from Planning staff to Planning commission, June 25, 2002, County File Number PLN 2002-00327.



In order to determine what the size limit for residential development should be to carry out the LCP agricultural protection policies, Commission staff reviewed all available records for existing residential development in the PAD zone for the County. These data show that the average size of existing single-family residences within the PAD zone is substantially smaller than the proposed development, but that in the past eight years several very large homes have been constructed. These data are summarized in the table below:

Table 1

Total No. Parcels in PAD/CD Zone	1,108
Total No. of Residentially Developed Parcels	165
Median House Size	2,271 sq. ft.
Average House Size	2,677 sq. ft.
Minimum House Size	390 sq. ft.
Maximum House Size	21,000 sq. ft.

These data also show:

- 75% of residences are 3,000 sq. ft. or less
- 88% of residences are 4,000 sq. ft. or less
- 94% of residences are 5,000 sq. ft. or less

As shown in Exhibit 9, several large single-family residences have been constructed during the last eight years in the PAD zone, including two projects that were approved by the Commission on appeal (Blank and Lee). Nevertheless, these permit records also show that only three of the 165 single-family residences in the PAD zone exceed 7,000 square feet (10,250 square feet, 15,780 square feet and 21,000 square feet). Furthermore, the County's records show that to date residential development has occurred on approximately 15 percent of the 1,108 parcels zoned PAD within the County's coastal zone and that only a small fraction of these developments involve larger estate homes. Thus, while several large homes have recently been constructed in the PAD zone that are similar in size or larger than the proposed development, these developments greatly exceed the scale of typical residences in the PAD zone and the development of such large homes is a relatively recent trend. As such, these data validate the concerns expressed by the County of increasing pressure to build large non-farm related residences on coastal farmland.

The Commission finds that to meet the requirements of LUP Policies 1.8 and 5.8 and Zoning Code Sections 6350 and 6355 of the certified LCP to: (1) preserve and foster existing and potential agricultural operations in order to keep the maximum amount of agricultural land in agricultural production, (2) minimize conflicts between agricultural and non-agricultural land uses, (3) minimize the encroachment of non-agricultural development on agricultural lands, (4) ensure that residential



development does not impair agricultural viability including through increased assessment costs, and (5) ensure that residential development on farmland does not diminish the productivity of any adjacent agricultural land, (i.e. that it is incidental to and in support of continued agricultural use of the land), the proposed new residential development should not exceed the typical scale of existing residential development on agricultural lands in the County in order to address the cumulative impacts of non-agricultural residential development on agricultural operations in San Mateo County. As discussed in other sections of this report, other conditions addressing development footprint, right to farm, and the maintenance of agriculture on the parcel are also required to meet the LCP requirements. Although the Commission has allowed some large non-agricultural residences to be constructed within the rural San Mateo County coastal zone, the Commission, like other agencies throughout the state and nation, now recognizes that such development threatens continued agricultural use of agricultural lands and is in conflict with the LCP agricultural land use protection policies and zoning. The Commission also finds that since relatively few of the approximately 1,100 agriculturally zoned parcels in the San Mateo County coastal zone have been developed with large estate homes to date, that it is timely to impose limitations on such development to prevent significant adverse impacts on the viability of agriculture throughout the county's coastal zone. Accordingly, Special Condition #1 limits the proposed residence to a maximum internal floor area of 2,500 square feet.

Also, several studies evaluating the size of single-family residences nationally report that the average size of single-family residences ranges from 2,100 to 2,200 square feet. In comparison, the median and average sizes of residential development (2,271 square feet and 2,677 square feet, respectively) on agricultural land in San Mateo County are generally consistent with these national data. When compared with other San Mateo agricultural properties, the 6,785 sq. ft residential development proposed by the applicants is roughly two-and-a-half to three times larger than most other residences constructed on agricultural lands.

The 2,500-square-foot limit imposed under Special Condition #1 not only conforms to the typical scale of existing residential development in the PAD zone (median 2,271 square feet, average 2,677 square feet) and with the national average, it also mirrors a recent amendment to the California Land Conservation Act (Williamson Act).

The Williamson Act was established in 1965 to preserve the state's agricultural lands in recognition of the following findings (GC §51220):

(a) That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also the assurance of adequate, healthful and nutritious food for future residents of this state and nation.

...

(c) That the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest...



The Williamson Act provides for the protection of agricultural lands by allowing landowners to substantially reduce their property tax assessments by entering into a contract restricting the use of their property to agriculture and other uses compatible with agriculture. While the Williamson Act established an incentive program to encourage the voluntary preservation of farmland, the Coastal Act takes a regulatory approach to achieve the same goal. Although the basic approaches differ, both Acts share the overall policy objective of limiting the conversion of agricultural lands to non-agricultural development. In addition to their shared policy objectives, the relationship between the two laws is evident through the Coastal Act's reference to the definition of "prime agricultural land" contained in the Williamson Act, as well as similarities between Coastal Act Sections 30241, 30242, and 30250 with language contained in various policies of the Williamson Act.

Residential development on agricultural land that is under a Williamson Act contract is allowable only if the residence is required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel. In response to an increased concern about violations related to the use of agricultural lands under Williamson Act contracts for non-agricultural development projects, the Williamson Act was amended in 2003 to provide enhanced penalties and enforcement remedies (AB1492- Laird). A Fact Sheet prepared by the California Department of Conservation describes the changes under this bill as follows:

Does AB 1492 repeal the Williamson Act?

No, AB 1492 provides enhanced penalties for a material breach of contract and extends the date of the lot line adjustment provisions. AB 1492 contains no new restrictions on uses allowed under the Williamson Act, existing contracts or local uniform rules or ordinances.

What is a "material breach of contract"?

Government Code §51250(b) defines a material breach on land subject to a Williamson Act contract as a commercial, industrial or residential building(s), exceeding 2,500 square feet that is not permissible under the Williamson Act, contract, local uniform rules or ordinances. AB 1492 only applies to structure(s) that have been permitted and constructed after January 1, 2004.

Does AB 1492 mean that I can now develop my Williamson Act property as long as none of the buildings exceed 2500 square feet?

No. Any development on property subject to a Williamson Act contract must be incidental to the primary use of the land for agricultural purposes and in compliance with local uniform rules or ordinances.

What does "incidental to the agricultural use of the land" really mean?

A use is incidental when it is required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel. Compatible uses on Williamson Act lands are defined in GC§51201(e). Additionally, each participating local government is required to adopt rules consistent with the principles of compatibility found in GC§§ 51231, 51238 and 51238.1.



Does AB 1492 prohibit me from building a house larger than 2500 sq. ft.?

Not necessarily. Homesites are allowed on contracted land but are limited in purpose and number and must be incidental to the agricultural use of the land. In addition, any homesite on land subject to a Williamson Act contract must be in compliance with local uniform rules or ordinances.

Under AB 1492, Williamson Act contract violations involving non-agricultural development over 2,500 square feet in floor area that are not required for or part of the agricultural use, are subject to substantially higher penalties. This amendment reflects the concerns of the Department of Conservation that non-agricultural development on protected farmlands is undermining both the intent and integrity of the Williamson Act throughout the state.⁷ The Commission finds it significant that the legislature, through amending the Williamson Act, established 2,500 square feet as the threshold for increased penalties for non-agricultural development violations on contract farmlands. The Commission also notes that the New Jersey Farmland Affordability/Availability Working Group has also recommended establishing a 2,500-square-foot limit for new residential development on farmlands in order to address the issue of residential development on preserved farmland.⁸

As stated in the Strong Associates Report, setting a limitation on the size of residential development on agricultural lands “is a policy decision that balances the long-term economic viability of agricultural use with the expectation of landowners to build a livable residence.” With respect to the proposed development, the Commission finds that such a balance would be achieved by limiting the size of the proposed single-family residence to 2,500 square feet. Limiting the scale of the proposed residence to 2,500 square feet would provide the applicants with a livable residence while preserving the viability of agricultural lands in the County by reducing the impacts of the development on land cost. In addition, limiting the size of the proposed residence to a relatively modest size would likely reduce demand for agricultural lands for high value estate development. As such, Special Condition #1 limits the size of the proposed residence to 2,500 square feet.

As shown above, the Commission finds that the high value of the proposed development would result in significant cumulative impacts on the viability of agriculture on the San Mateo County coast by contributing to the increased cost of agricultural land in the region. As such, the proposed development would diminish the ability to keep all agricultural land in agricultural production in conflict with LUP Policy 1.8(a) and Zoning Code Section 6350 and would impair agricultural viability through increased assessment costs, inconsistent with LUP Policy 5.8. Therefore, in order to ensure that the proposed development does not diminish the continued viability of agriculture and the ability to maintain the maximum amount of agricultural lands in agricultural production, the Commission finds it necessary to limit the size of the proposed residence. The Commission further finds that the requirements of the LCP can be met while still allowing the applicant a reasonable residential use by limiting the size of the residence to 2,500 square feet. This limit corresponds with the typical scale of existing residential development in the PAD zoning district, exceeds the national average new home size, and is in line with

⁷ Pers. Comm. Dennis O'Bryant, California Department of Conservation, May 9, 2005.

⁸ Recommendations of the New Jersey Farmland Affordability/Availability Working Group, September 23, 2004.



the 2,500-square-foot threshold for increased penalties for Williamson Act violations. Special Condition #1 would reduce the individual and cumulative impacts of the proposed development on the productivity and viability of agricultural land and increase the ability to keep agricultural land in production on the San Mateo County coast. Therefore, the Commission finds that as conditioned the proposed development is consistent with LUP Policies 1.8(a) and 5.8 and Zoning Code Section 6350.

Farm Infrastructure

Agricultural production requires related improvements and support facilities such as irrigation systems and water supply facilities, fences for both pasture management and pest control, equipment storage barns, etc. The development and maintenance of such facilities is a critical factor in maintaining the viability of agricultural lands and ensuring that agricultural lands remain in production. Such improvements can be very costly. For example, a new fence costs between \$3 and \$3 per linear foot, or \$261 to \$327 per acre in the case of the project site. Because of the high cost of developing and maintaining farm infrastructure, such improvements may only be feasible as long-term investments that are amortized over the life of the facility. Estate development where the property value is based principally on the residential use rather than agricultural use may discourage long-term investment in farm infrastructure and support facilities. Property owners who do not rely on or are not actively engaged in commercial agriculture as their primary means of income do not have the same economic incentive as a farmer to make costly long-term investments necessary to support agricultural use of their property, and lessee farm operators are often reluctant to make such investments in land they do not own.⁹ Therefore, to ensure that the proposed development does not diminish the agricultural viability of the project site and maintains the maximum amount of agricultural land in agricultural production, the Commission finds that the applicants and any successors in interest in the property must be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property. Special Condition #2B requires such. The Commission finds that Special Condition #2B is required in order for the proposed development to meet the requirements of LUP Policies 1.8(a) and 5.8 and Zoning Code Sections 6350 and 6355.

⁹ Marin County Agricultural Economic Analysis, Final Report, Strong Associates, November 2003. Pers. Comm. Larry Jacobs, San Mateo County Farm Commission Chair, May 6, 2005.

